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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



MATT BLUNT

SECRETARY OF STATE

MISSOURI  
REGISTER

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**SECRETARY OF STATE**

**MATT BLUNT**

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

**DIRECTOR**

LYNNE C. ANGLE

•  
**EDITORS**

BARBARA McDUGAL

JAMES McCLURE

•  
**ASSOCIATE EDITORS**

CURTIS W. TREAT

SALLY L. REID

TIFFANY M. DAVIS

**PUBLISHING STAFF**

WILBUR HIGHBARGER

HEATHER M. KAMPETER

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# MISSOURI REGISTER



January 3, 2005

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June 1, 2005 June 15, 2005	July 1, 2005 July 15, 2005	July 31, 2005 July 31, 2005	August 30, 2005 August 30, 2005

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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Eden Theological Seminary/ Webster University Eden/Webster Library 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660 ext. 7812	Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656	Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711	Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411 ext. 3551
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Washington University Washington University Law Library Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6443	Kansas City Public Library 311 East 12th St. Kansas City, MO 64106-2454 (816) 701-3546	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65211-7298 (573) 882-9369	Springfield-Greene County Library 4653 S. Campbell Springfield, MO 65801-0760 (417) 874-8110
St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300 ext. 247	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161 ext. 359	Meyer Library Southwest Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
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St. Charles City-County Library Middendorf-Kredell Branch 2750 Hwy K O'Fallon, MO 63366-7859 (636) 978-7997	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	Central Methodist College Smiley Memorial Library 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6279	
Truman State University Pickler Memorial Library 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416	St. Joseph Public Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151		

## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1 Department	CSR	10- Agency, Division	1. General area regulated	010 Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

*Missouri and United States Constitutions.* The director has limited the scope of the emergency amendment to the circumstances creating the emergency. Emergency amendment filed November 30, 2004, effective January 1, 2005, expires June 29, 2005.

(1) Pursuant to section 32.065, RSMo, the director of revenue upon official notice of the average predominant prime rate quoted by commercial banks to large businesses, as determined and reported by the Board of Governors of the Federal Reserve System in the Federal Reserve Statistical Release H.15(519) for the month of September of each year, has set by administrative order the annual adjusted rate of interest to be paid on unpaid amounts of taxes during the succeeding calendar year as follows:

Calendar Year	Rate of Interest on Unpaid Amounts of Taxes
1995	12%
1996	9%
1997	8%
1998	9%
1999	8%
2000	8%
2001	10%
2002	6%
2003	5%
2004	4%
<b>2005</b>	<b>5%</b>

*AUTHORITY:* section 32.065, RSMo 2000. Emergency rule filed Oct. 13, 1982, effective Oct. 23, 1982, expired Feb. 19, 1983. Original rule filed Nov. 5, 1982, effective Feb. 11, 1983. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Nov. 30, 2004, effective Jan. 1, 2005, expires June 29, 2005. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 41—General Tax Provisions**

**EMERGENCY AMENDMENT**

**12 CSR 10-41.010 Annual Adjusted Rate of Interest.** The department proposes to amend section (1).

*PURPOSE:* Under the Annual Adjusted Rate of Interest (section 32.065, RSMo), this amendment establishes the 2005 annual adjusted rate of interest to be implemented and applied on taxes remaining unpaid during calendar year 2005.

*EMERGENCY STATEMENT:* The director of revenue is mandated to establish an annual adjusted rate of interest based upon the adjusted prime rate charged by banks during September of that year as set by the Board of Governors of the Federal Reserve rounded to the nearest full percent. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the amendment informs the public of the established rate of interest to be paid on unpaid amounts of taxes for the remaining 2005 calendar year. The director finds that there is an immediate danger to the public welfare which can only be addressed through this emergency amendment. The director has followed procedures calculated to assure fairness to all interested persons and parties and has complied with protections extended by the

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbol. Any under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

(1) Applicants who fail to pass the architectural examinations will be allowed unlimited opportunities for reexamination in accordance with the rolling clock standards established by the National Council of Architectural Registration Boards (NCARB).

**AUTHORITY:** sections 327.041, RSMo [1986] Supp. 2003 and 327.151, RSMo 2000. Original rule filed Aug. 22, 1973, effective Sept. 22, 1973. Amended: Filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Sept. 13, 1983, effective Dec. 11, 1983. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will cost private entities an estimated fifty eight thousand eight hundred sixty dollars (\$58,860) annually for the life of the rule beginning in FY11. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Proposed Amendment Text Reminder:

**Boldface text** indicates new matter.

*(Bracketed text indicates matter being deleted.)*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects

#### Chapter 5—Examinations

##### PROPOSED AMENDMENT

**4 CSR 30-5.060 Reexamination—Architects.** The board is amending the provisions of this rule.

**PURPOSE:** This rule is being amended to be in compliance with the rolling clock standards established by the National Council of Architectural Registration Boards.

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 30 - Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects**

**Chapter 5 - Examinations**

**Proposed Rule 4 CSR 30-5.060 Reexamination - Architects**

Prepared November 1, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:</b>	<b>Classification by type of the business entities which would likely be affected:</b>	<b>Estimated cost of compliance with the rule by affected entities:</b>
60	Architectural Applicants (\$981/nine divisions of the examination)	\$58,860.00
	<b>Estimated Annual Cost of Compliance for the Life of the Rule Beginning in FY11.</b>	<b>\$58,860.00</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. There will be zero impact until January 1, 2011. After that date, it is estimated that approximately 2% of the architectural applicants will be affected by this amendment. Based on an annual average of 60 architectural applicants, this equates to roughly 1 applicant per year who may have to retake all nine divisions after the five year period of time. The cost for taking all nine divisions of the architectural registration examination (ARE) is \$981.
2. For an applicant who fails to pass all nine divisions of the exam within five years, he or she will incur the cost of having to retake and pass the nine divisions before qualifying for licensure.
3. The board anticipates the number of applicants affected by this amendment to remain consistent for the life of the rule.
4. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT****Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules****PROPOSED RULE****4 CSR 95-1.005 Committee for Professional Counselors—General  
Organization**

*PURPOSE:* *This rule describes the organization and general methods of administration and communication concerning the division.*

(1) The purpose of the Committee for Professional Counselors is to guide and advise the Division of Professional Registration relating to the regulation of professional counseling concerning the health, safety and welfare of the inhabitants of this state; to protect the inhabitants of this state from harm caused by dangerous, dishonest, incompetent, or unlawful practice of counseling and to implement and sustain a system for the examination and regulation of licensed professional counselors, provisional licensed professional counselors and counselors-in-training.

(2) The committee shall meet at least once a year to elect a chairperson and secretary by a majority of committee member votes. In the absence of the chairperson, the secretary shall preside. Additional meetings may be held as division and committee business requires and all meeting notices shall be posted in compliance with Chapter 610, RSMo or any other applicable law or rules.

(3) Unless otherwise provided by the statutes or regulations, all meetings of the committee may be conducted according to *Robert's Rules of Order*.

(4) Members of the public may obtain information or make a submission to the Division of Professional Registration or the Committee for Professional Counselors by writing PO Box 1335, Jefferson City, MO 65102-1335, by faxing a request to (573) 751-0735 or by e-mail at [profounselor@pr.mo.gov](mailto:profounselor@pr.mo.gov). The telephone number for the committee office is (573) 751-0018 and the TDD number is (800) 735-2966.

*AUTHORITY:* *sections 337.500, 337.520 and 337.535, RSMo 2000.*  
*Original rule filed Dec. 1, 2004.*

*PUBLIC COST:* *This proposed rule will cost state agencies or political subdivisions an estimated nine thousand five hundred sixty-one dollars (\$9,561) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST:* *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS:* *Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at [profounselor@pr.mo.gov](mailto:profounselor@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**  
**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**  
**Proposed Rule - 4 CSR 95-1.005 Committee for Professional Counselors - General Organization**  
Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Annual Cost of Compliance</b>
<b>Committee for Professional Counselors</b>	<b>\$9,561</b>

**\$9,561  
Total Annual Cost of Compliance for  
the Life of the Rule**

**III. WORKSHEET**

**Annual Meetings of the Committee**

NUMBER OF COMMITTEE MEMBERS	PER DIEM AMOUNT PER DAY	ESTIMATED AMOUNT OF EXPENSES	ANNUAL NUMBER OF QUARTERLY MEETINGS	TOTAL
6	\$50	\$1,790	4 (2 days each)	\$8,361

**Annual Conference Calls**

NUMBER OF COMMITTEE MEMBERS	PER DIEM AMOUNT PER DAY	ANNUAL NUMBER OF CONFERENCE CALLS	TOTAL
6	\$25.00	8	\$1,200

**Total Amount of Per Diem \$9,561**

**IV. ASSUMPTION**

1. Pursuant to section 337.535, RSMo each member of the committee shall receive as compensation, an amount set by the committee not to exceed fifty dollars (\$50) for each day devoted to the affairs of the committee, and shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties. The committee estimates the average reimbursement amount is \$1,790 per face to face meeting, which includes mileage and hotel and meal expenses and is based on the current CONUS Rate. Conference calls typically average 2 hours per call. The per diem rate is broken down into 2 hour increments, therefore, members of the committee receive \$12.50 per conference call.
2. The above reimbursement figures were based on FY04 actual expense reports.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**

**PROPOSED RESCISSION**

**4 CSR 95-1.010 Application for Licensure.** This rule outlined the procedure for application for licensure as a professional counselor.

*PURPOSE: The committee is proposing to rescind this rule and move the rule to Chapter 2 to coincide with the committee's reorganization of the rules.*

*AUTHORITY: sections 337.507 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Amended: Filed Aug. 5, 1991, effective Dec. 9, 1991. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**

**PROPOSED RESCISSION**

**4 CSR 95-1.020 Fees.** This rule established the fees for the Committee for Professional Counselors.

*PURPOSE: This rule is being rescinded and readopted to reorganize the fee structure.*

*AUTHORITY: sections 337.507 and 337.520 RSMo. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**

**PROPOSED RULE**

**4 CSR 95-1.020 Fees**

*PURPOSE: This rule establishes the fees for the Committee for Professional Counselors.*

(1) The following fees are established by the Committee for Professional Counselors and are payable in the form of a cashier's check, personal check, or money order:

(A) Application Fee	\$150.00
(B) Registration of Supervision (includes educational evaluation)	\$100.00
(C) Change of Supervision	\$25.00
(D) Biennial Renewal	\$200.00
1. Renewal received 1–60 days late	\$50.00
2. Renewal received 61 days–2 years late	\$100.00
(E) Insufficient Funds Check Charge	\$25.00
(F) Fingerprint Fee Amount determined by the Missouri State Highway Patrol	
(G) Educational Review	\$25.00

(2) Effective as of the date the division has its on-line renewal system in place and fully operating, the committee will accept payment by credit card or electronic check, as defined by section 407.432(4), RSMo, for the purpose of renewing licenses via the Internet. Payment of license renewal fees by credit card shall be restricted to renewal submitted via the Internet only.

*AUTHORITY: sections 337.507, RSMo Supp. 2004 and 337.520.1(2), RSMo 2000. Original rule filed Oct. 16, 1986, effective June 30, 1987. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**

**PROPOSED RESCISSION**

**4 CSR 95-1.030 Acceptable Agents for Exempt Categories.** This rule defined the agents acceptable to the committee regarding certain exempt categories.

*PURPOSE: This rule is being rescinded because it is redundant and not necessary. Section 337.505, RSMo provides those professions that are exempt from the licensure requirements.*

**AUTHORITY:** sections 337.505 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Amended: Filed Aug. 5, 1991, effective Dec. 9, 1991. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**

**PROPOSED RESCISSION**

**4 CSR 95-1.040 Policy for Handling Release of Public Records.** This rule set forth the committee's written policy in compliance with sections 610.010-610.030, RSMo regarding the release of information on any meeting, record or vote of the committee.

**PURPOSE:** This rule is being rescinded to allow the office to adopt an administrative policy.

**AUTHORITY:** sections 337.520, and 610.010-610.030, RSMo 1986. Original rule filed May 2, 1989, effective July 27, 1989. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**

**PROPOSED RULE**

**4 CSR 95-1.050 Public Complaint Handling and Disposition Procedure**

**PURPOSE:** This rule establishes a procedure for the receipt, handling and disposition of public complaints pursuant to the mandate of section 620.010.16(6), RSMo.

(1) The Committee for Professional Counselors will receive and process each complaint made against any licensed professional counselor, counselor-in-training, registered supervisor, provisional licensed professional counselor or unlicensed individual or entity, in which a complaint alleges acts or practices constitute one (1) or more violations of the provisions of sections 337.500-337.545, RSMo or regulations governing the counseling profession. No member of the Committee for Professional Counselors may file a complaint with the committee while serving as a member unless that member is excused from further committee deliberation or activity concerning the matters alleged within that complaint. The division, division's designated representative, or any division staff member may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints shall be mailed or delivered to the following address: Missouri Committee for Professional Counselors, 3605 Missouri Boulevard, PO Box 1335, Jefferson City, MO 65102. Complaints may be based upon personal knowledge, information and belief, or reciting information received from other sources. Individuals with special needs addressed by the Americans with Disabilities Act should contact the committee office at (573) 751-0018. The TDD toll free number is (800) 735-2966.

(3) All complaints shall be made in writing and shall fully identify the person making the complaint by name and address. Verbal or telephone communications will not be considered or processed as complaints. A person making a verbal or telephone complaint shall be asked to supplement those communications with a signed complaint form or written, signed statement. A complaint submitted anonymously shall be reviewed by the committee to determine if further inquiry is required.

(4) Each complaint received under this rule shall be logged and shall include the name and address of the person initiating the complaint, name and address of the subject(s) of the complaint, date the complaint was received by the committee, brief description concerning the allegation, and the final disposition of the complaint. This log shall be a closed record.

(5) Each complaint received pursuant to this rule shall be acknowledged in writing and the complainant and licensee shall be notified of the disposition of the complaint.

(6) This rule shall not be deemed to limit the division's or committee's authority to file a complaint with the Administrative Hearing Commission charging a licensee or registrant of the committee with any actionable conduct or violation, whether or not such a complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the committee, and whether or not any public complaint has been filed with the committee.

(7) This rule is interpreted to exist for the benefit of those members of the public who submit complaints to the division or committee. This rule is not deemed to protect, or benefit licensees, registrants, or other persons against whom the committee has instituted or may institute administrative or judicial proceedings concerning possible violations of or may institute administrative or judicial proceedings concerning possible violations of the provisions of sections 337.500-337.545, RSMo.

**AUTHORITY:** sections 337.520 RSMo 2000 and 620.010, RSMo Supp. 2003. Original rule filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rule will cost state agencies or political subdivisions an estimated nine thousand one hundred eighty-four dollars and thirty cents (\$9,184.30) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of

*the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 95—Committee for Professional Counselors**

**Chapter 1—General Rules**

**Proposed Rule - 4 CSR 95-1.050 Public Complaint Handling and Disposition Procedure**

Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Committee for Professional Counselors	\$9,184.30
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	<b>\$9,184.30</b>

**III. WORKSHEET**

**IV. ASSUMPTIONS**

**1. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE**

The division's central investigative unit receives the initial complaints for the committee and request responses from the licensees and when appropriate conducts an investigation of the complaint. The investigation consists of reviewing all complaint related information, gathering evidence, conducting interviews as required and submitting written reports for the committee's review. In FY04 the committee transferred \$9,696 in investigative costs with 20 complaints referred for investigation. This translates to an estimated cost of \$485 per referred compliant. In FY05 the committee estimates it will refer 15 complaints to the central investigative unit for a total cost of \$7,775. The committee does not anticipate any growth in the number of complaints referred on an annual basis.

Salaries for the Executive Director and Licensure Technician II are shared with 3 other boards within the division. The figures below represent the personal service costs supported by the State Committee of Professional Counselors.

Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The cost per hour was then multiplied by the amount of time individual staff spent on the processing of complaints. The total cost was based on the cost per complaint multiplied by the estimated number of complaints.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE	HOURLY SALARY	NUMBER OF HOURS SPENT ANNUALLY	TOTAL COST PER APPLICATION
Executive Director	\$24,550.80	\$34,486.51	\$16.58	85	\$1,409.30
<b>Total Personal Service Cost for Board Staff Per Application</b>					<b>\$1,409.30</b>

It is estimated that the following staff time will be devoted on each complaint for the following duties:

**Executive Director** -Reviews investigative reports and request additional information per directives from legal counsel or members of the committee, receives board recommendations regarding investigations and if additional information is required sends a complaint referral to the chief investigator for the division and assists with updates to the complaint system. It is estimated that 41% of this position is allocated to licensed professional counselors and of this time 10% is spent on reviewing applications for supervision and change of supervision applications. Therefore, of the 2080 hours of worked annually, it is estimated that approximately 85 hours per year are spent each year for reviewing complaints.

**Committee Members** - review complaints. Personal service costs for board member per diem was reported in 4 CSR 95-1.005.

2. The figures above are based on FY04 actuals and FY05 estimates. The committee does not anticipate any growth in the number of complaints received each year.
3. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 1—General Rules**

**PROPOSED RULE**

**4 CSR 95-1.060 License Renewal and Changes to License**

*PURPOSE: This rule provides information and the requirements regarding the annual renewal of a license and the procedure for notifying the committee of name and address changes.*

(1) A licensed professional counselor, counselor-in-training, or provisional licensed professional counselor shall inform the committee in writing within thirty (30) days of a name and/or address change. If a name is changed by marriage or court order, a copy of the documentation authorizing the name change shall be submitted to the committee. No other name changes shall be accepted.

(2) A license shall be renewed on or before the expiration of the license by submitting the renewal notice and fee pursuant to 4 CSR 95-1.040(1)(D). Renewals shall be postmarked no later than the expiration date of the license to avoid the late fee as defined in 4 CSR 95-1.020(1)(D)1 and 2.

(3) Failure to receive a renewal notice shall not excuse the licensee from the requirement to renew a license as outlined in sections 337.507.2 and 337.515, RSMo.

(4) Failure to provide information for a renewal and/or failure to pay the required renewal fee by the expiration date of the license shall result in the license becoming lapsed and expired. The licensee shall be prohibited from practicing professional counseling until applying for reinstatement to the committee and paying the applicable fee(s).

(5) Any licensed professional counselor failing to renew a license on or before the license expiration date may apply to the committee for reinstatement of the license within two (2) years subsequent to the date the license expired and pay the required fee as defined in 4 CSR 95-1.020(1)(D)2. If a license is not current for more than two (2) years subsequent to the license renewal date, the former licensee shall submit a new application for licensure, comply with current licensure requirements as defined by law and regulations and pay the required fee as defined in 4 CSR 95-1.020(1)(A).

*AUTHORITY: sections 337.507, RSMo Supp. 2004 and 337.515 and 337.520 (1), RSMo 2000. Original rule filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated seven thousand forty-six dollars and thirty-seven cents (\$7,046.37) biennially for the life of the rule. It is anticipated that the total costs will recur biennially for the life of the rule, may vary with inflation and are expected to increase biennially at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed rule will cost private entities an estimated five hundred sixty-one thousand seven hundred ninety dollars (\$561,790) for the life of the rule. It is anticipated that the total costs will recur biennially for the life of the rule, may vary with inflation and are expected to increase biennially at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE****I. RULE NUMBER****Title 4 -Department of Economic Development****Division 95—Committee for Professional Counselors****Chapter 1—General Rules****Proposed Rule - 4 CSR 95-1.060 License Renewal and Changes to License**

Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance
Committee for Professional Counselors	\$7,046.37
Total Biennial Cost of Compliance for the Life of the Rule	\$7,046.37

**III. WORKSHEET****IV. ASSUMPTIONS****1. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE**

The division's central processing unit processes the renewal applications for the committee. In FY04 the committee transferred \$4,246.37 to cover the personal services expenses for processing the renewal applications. The committee estimates it will cost approximately \$1.00 for expense and equipment costs per renewal application, which includes paper, envelopes, and postage. Based on the figures above and the committee's estimate that approximately 2,800 renewal applications will be processed by the division's central processing unit annually, the committee estimates the processing of renewal applications will cost approximately \$2,800 annually for the life of the rule.

2. The committee estimates five (5) name changes will be received annually. Because such a small amount of time is involved in updating the division's licensing system, the committee did not include the cost of the process in the fiscal note.
3. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the committee, which includes personal service, expense and equipment and transfers.

## **PRIVATE ENTITY FISCAL NOTE**

### **I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 95—Committee for Professional Counselors**

**Chapter 1—General Rules**

**Proposed Rule - 4 CSR 95-1.060 License Renewal and Changes to License**

Prepared November 5, 2004 by the Division of Professional Registration

### **II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the amendment by affected entities:
2,800	Licensees (Renewal Fee - \$200)	\$560,000
5	Licensees (Renewal Fee/1-60 days late - \$50)	\$250
5	Licensees (Renewal Fee/60 days - 2 years late - \$100)	\$500
2,800	Licensees (postage - renewals @ \$.37)	\$1,036
10	Licensees (postage - name change @ \$.37)	\$3.70
	<b>Estimated Biennial Cost of Compliance for the Life of the Rule</b>	<b>\$561,790</b>

### **III. WORKSHEET**

See table above.

### **IV. ASSUMPTION**

1. The above figures are based on FY04 actuals and FY05 estimates.
2. It is anticipated that the total cost will recur biennially for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT****Division 95—Committee for Professional Counselors  
Chapter 2—Licensure Requirements****PROPOSED RESCISSON**

**4 CSR 95-2.010 Educational Requirements.** This rule defined the educational requirements for a professional counselor license.

**PURPOSE:** *This rule is being rescinded and readopted to better define the education requirements for a professional counselor.*

**AUTHORITY:** *sections 337.510 and 337.520, RSMo 1986. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT****Division 95—Committee for Professional Counselors  
Chapter 2—Licensure Requirements****PROPOSED RULE****4 CSR 95-2.010 Educational Requirements**

**PURPOSE:** *This rule defines the educational requirements for professional counselors.*

(1) In order to apply for supervision, provisional licensure, or licensure as a professional counselor, an applicant shall have received a graduate degree at the doctoral, specialist or master level with either a major in counseling or another mental health discipline from an acceptable educational institution.

(A) An acceptable educational institution shall mean a regionally accredited institution approved by the United States Department of Elementary and Secondary Education.

(2) For the purpose of this rule and pursuant to sections 337.510(1) and 337.520(5), RSMo the equivalent basic educational requirements shall be a course of study in a mental health discipline and shall be a degree in counseling and guidance, counseling psychology, clinical psychology, or school psychology. The committee shall have the authority to review the composition of the degree to determine compliance with the education requirements of this regulation.

(3) To be considered an acceptable degree in counseling or another mental health discipline, the degree shall be either:

(A) Issued by a counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), or its successor organization, or the Counseling on

Rehabilitation Education, Incorporated (CORE), or its successor organization; or

(B) Be from a graduate program designed primarily to teach counseling principles and techniques. It shall be designed to train the student to become a licensed professional counselor as defined in section 337.500(5), RSMo and to engage in the practice of professional counseling as defined in section 337.500(6) and (7), RSMo. The teaching of counseling theories, counseling techniques, and counseling interventions shall be the major course of study within the graduate program; and

1. Prior to January 1, 2006 shall consist of thirty (30) semester hours or forty five (45) quarter hours of graduate study. After January 1, 2006 a degree shall consist of at least forty-eight (48) semester hours or sixty (60) quarter hours of graduate study; and

2. An application received after January 1, 2006 shall document at least six (6) semester hours or nine (9) quarter hours of graduate level supervised practicum, internship, or field experience in the practice of counseling. Applications received prior to January 1, 2006:

A. With graduate education starting before July 1, 1991, shall document at least five (5) semester hours or eight (8) quarter hours of graduate level supervised practicum, field experience, or internship in the practice of counseling; or

B. With graduate education starting after July 1, 1991 shall document at least six (6) semester hours or nine (9) quarter hours of graduate level supervised practicum, internship, or field experience in the practice of counseling.

C. Any practicum, field experience, or internship shall be clearly delineated on the transcript with graduate level credit and a passing grade.

(4) The applicant shall have the burden of demonstrating that the degree is in counseling or a mental health discipline as defined in section (2). If the applicant's transcript does not clearly delineate that the degree is in counseling or mental health discipline as defined in section (2), the applicant may be required to obtain a letter from the chair of the department of counseling education or other appropriate school official, stating that the applicant has a master, specialist, or doctoral degree in counseling or a mental health discipline as defined in section (2). The letter shall be on official letterhead of the college or university. The applicant may also be required to provide evidence that the degree program included no less than one three (3)-semester-hour or one five (5)-quarter-hour graduate course in each of the following core areas:

(A) Counseling Theory—Courses acceptable for this area shall cover the various major theories and techniques of counseling; and

(B) Human Growth and Development—Courses acceptable for this area shall cover various stages of the human growth cycle and include information about theories of development or various aspects of development; and

(C) Social and Cultural Diversity—Courses acceptable for this area cover various cultural and social class issues in areas such as race, sexual orientation, aging, disability, socioeconomic, ethnic, gender related, or other issues of diversity that emerge in a pluralistic society; and

(D) Helping Relationship—Courses acceptable for this area cover theoretical foundations pertaining to professional skill training that enable the counselor to understand the client's problems more fully and accurately and to interview effectively; and

(E) Group Counseling—Courses acceptable for this area cover the theories, principles, and techniques of providing counseling or psychotherapy with groups of people; and

(F) Career Development—Courses acceptable for this area cover concepts about how career development unfolds, the lifelong processes, and the influences upon clients or patients that lead to work values, occupational choice, creation of a career pattern, decision-making style, integration of roles, issues concerning identity, and patterns of work adjustment; and

(G) Appraisal—Courses acceptable for this area cover structured and unstructured assessment of the mental health functions and psychopathology of a person; and

(H) Research Methods—Courses acceptable for this area cover principles, methods, techniques, and tools used in performing research in counseling; and

(I) Professional Orientation—Courses acceptable for this area cover such areas as professionalism, legal issues and responsibilities, ethics, fields of training, and practice specialization.

(5) In determining whether a degree program included no less than one three (3)-semester-hour or a five (5)-quarter-hour graduate course in a core area, the following shall apply:

(A) It shall be the applicant's responsibility to document that the course was an in-depth study of a particular core area through course descriptions from official school catalogues, course syllabi, bulletins, or with written documentation from an appropriate school official;

(B) A seminar course shall be acceptable if the applicant is awarded a passing grade and graduate credit is clearly delineated on the transcript;

(C) Reading courses or independent study shall be submitted to the committee for review;

(D) Continuing education, workshops, work experience, or any course offered primarily by audio or video tape or noninteractive electronic communication shall not be acceptable. For the purpose of this rule, noninteractive electronic communication is defined as course(s) transmitted via satellite in which the student has no means of simultaneously interacting visually and verbally with the course instructor during the transmission of the course;

(E) Undergraduate course work shall not be in compliance with core requirements unless graduate credit is clearly delineated on the transcript;

(F) When evaluating transcripts based upon a quarter-hour system, the committee shall consider a quarter hour of graduate credit as two-thirds (2/3) of a semester hour. A semester hour of graduate credit shall be defined as fifteen (15) clock hours of regularly scheduled classroom study; and

(G) No more than six (6) semester hours or nine (9) quarter hours in seminar course work or independent study shall be applicable to the total number of hours of graduate study comprising the degree in the area of counseling or mental health discipline.

(6) Upon receipt of official educational transcripts from the college or university and/or information relating to the program, and upon payment of the fee for an educational review as defined in 4 CSR 95-1.040(1) the committee will review education credentials or a proposed plan for obtaining the appropriate education in compliance with these rules. All information shall be submitted to the committee no later than thirty (30) days prior to the next regularly scheduled committee meeting. Information received fewer than thirty (30) days before a committee meeting may be reviewed at the committee's discretion.

(7) Graduate course work in counseling, or a mental health discipline as defined in section (2) and from a school, college, university, or other institution of higher learning outside of the United States, may be considered in compliance with these rules if, at the time the school, college, university, or other institution of higher learning where the applicant was enrolled or graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions accredited by one of the regional accredited commissions recognized by the United States Department of Elementary and Secondary Education. The committee shall determine if the standard of training was substantially the same as those institutions accredited by one (1) of the regional accrediting commissions recognized by the United States Department of Elementary and Secondary Education.

(A) It shall be the applicant's responsibility to document that the course work is in counseling or another mental health discipline, as defined in section (2), is substantially the same as those institutions accredited by one (1) of the regional accrediting commissions recognized by the United States Department of Elementary and Secondary Education through course descriptions from official school catalogues, course syllabi, bulletins, or with written documentation from an appropriate school official explaining how the course was an in-depth study of particular core area as defined in subsections (4)(A)-(I).

*AUTHORITY: sections 337.510, RSMo Supp 2004 and 337.520, RSMo 2000. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Amended: Filed July 3, 1990, effective Dec. 31, 1990. Amended: Filed Aug. 5, 1991, effective Dec. 9, 1991. Rescinded and readopted: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 95—Committee for Professional Counselors Chapter 2—Licensure Requirements**

#### **PROPOSED RESCISSON**

**4 CSR 95-2.020 Supervised Counseling Experience.** This rule defined the requirements for supervised counseling experience.

*PURPOSE: This rule is being rescinded and readopted to better define the supervision requirements for a professional counselor.*

*AUTHORITY: sections 337.510 and 337.520, RSMo Supp. 1989. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Amended: Filed July 3, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 4, 1992, effective June 25, 1992. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RULE**

**4 CSR 95-2.020 Supervised Counseling Experience**

*PURPOSE: This rule defines the requirements for supervised counseling experience.*

(1) As applied to periods of supervision beginning on or after January 1, 1989, the phrase “acceptable supervised counseling experience” as used in section 337.510(1), RSMo, shall mean training in counseling as defined in section 337.500(6) and (7), RSMo, registered with and approved by the committee and beginning after the graduate degree in counseling or a mental health discipline as defined in 4 CSR 95-2.010(2). All educational requirements as defined in sections (1) and (3) shall have been met before any supervised counseling experience commences.

(A) For the purpose of provisional licensure or licensure as a professional counselor, supervision shall be obtained from a licensed professional counselor, licensed psychologist, or psychiatrist. The registered supervisor shall not be a relative of the applicant or have engaged in the activities described in 4 CSR 95-3.010(12)(A)–(F) during the supervised counseling experience.

(B) For the purpose of this rule, a relative of the applicant for supervision shall include but not be limited to a spouse, parent, child, sibling, of the whole or half-blood, adopted sibling, grandparent, aunt, uncle, or cousin, or one who is or has been related in the first degree by marriage.

(2) The applicant shall obtain the appropriate form and fingerprint cards for filing the application for registration of supervision by writing to the Division of Professional Registration or Committee for Professional Counselors, PO Box 1335, Jefferson City, MO, 65102-1335, calling (573) 751-0018, sending a fax to (573) 751-0735, or sending an e-mail to [profounselor@pr.mo.gov](mailto:profounselor@pr.mo.gov). The TDD number is (800) 735-2996.

(A) All proposed supervision arrangements beginning on or after July 1, 1989 shall be approved by the committee. An application for supervision or change of supervision shall not be considered as officially filed with the committee unless it is typewritten or printed in black ink, signed, accompanied by all documents required by the committee and the applicant pays the required application fee. The effective or starting date of supervision shall be the date the application is received in the committee’s office and contingent upon the committee’s approval. Following the review of the application for supervision by the committee, the applicant shall be informed in writing of the committee’s decision.

(B) The completed application for supervision or change of supervision including all supporting material required by the committee shall be received at least thirty (30) days before the meeting of the committee. Applications received less than thirty (30) days before the next regularly scheduled committee meeting may be reviewed at the committee’s discretion.

(3) To begin supervised counseling experience, the applicant shall have a master, specialist or doctoral degree in counseling or another mental health discipline as defined in 4 CSR 95-2.010(2) and have received graduate credit for at least three (3) semester hours or five (5) quarter hours in counseling theory as defined in 4 CSR 95-2.010(4)(A) and at least two (2) semester hours or four (4) quarter hours in supervised practicum as defined in 4 CSR 95-2.010(3)(B)1. The committee may approve the applicant for supervision while the applicant completes core course deficiencies. All core course defi-

ciencies shall be completed prior to being eligible for provisional licensure or licensure as a professional counselor.

(4) An applicant approved for supervision or provisional licensure based upon a master’s degree pursuant to section 337.510.1(c), RSMo shall obtain in no more than sixty (60) calendar months:

(A) A minimum of three thousand (3,000) total hours of supervised counseling experience. Hours may be obtained on a part-time or full-time basis and the counselor-in-training or provisional licensed professional counselor may receive reimbursement from the employer or supervisor or provide therapeutic services on a voluntary basis; and

(B) A minimum of twenty-four (24) calendar months of continuous supervised counseling experience. The counselor-in-training or provisional licensed professional counselor shall obtain an average of at least fifteen (15) hours of supervised counseling experience per week in order for the experience to be considered by the committee. If a counselor-in-training or provisional licensed professional counselor is unable to obtain at least an average of fifteen (15) hours per week, s/he must advise the committee in writing regarding the reason that such hours cannot be obtained. The committee shall determine if such hours can be acceptable for licensure.

(C) A minimum of twelve hundred (1,200) hours of the three thousand (3,000) hours of supervised counseling experience shall be direct client contact.

1. For the purpose of these regulations, direct client contact shall be defined as face-to-face interaction between the client/patient or group and the counselor-in-training or provisional licensed professional counselor in the same room.

(5) An applicant approved for supervised counseling experience based upon a specialist or doctoral degree in counseling or other mental health discipline as defined in 4 CSR 95-2.010(2) or based upon thirty (30) hours of post master’s course work in counseling or other mental health discipline as defined in 4 CSR 95-2.010(2) shall obtain in no more than thirty-six (36) calendar months:

(A) A minimum of fifteen hundred (1,500) hours of supervised counseling experience. Hours may be obtained on a part-time or full-time basis and the counselor-in-training or provisional licensed professional counselor may receive reimbursement from the employer or supervisor or provide therapeutic services on a voluntary basis; and

(B) A minimum of twelve (12) calendar months of supervised counseling experience. The counselor-in-training or provisional licensed professional counselor must obtain an average of at least fifteen (15) hours of supervised counseling experience per week in order for the experience to be considered by the committee. If a counselor-in-training or provisional licensed professional counselor is unable to obtain at least fifteen (15) hours per week, s/he must advise the committee in writing regarding the reason that such hours cannot be obtained. The committee shall determine if such hours can be acceptable for licensure.

(C) A minimum of six hundred (600) hours of supervised counseling experience shall be direct client contact.

(6) The counselor-in-training, provisional licensed professional counselor and registered supervisor shall either be employed at the same counseling setting or affiliated to the setting by contract. A counselor-in-training or provisional licensed professional counselor shall not operate a private practice. An applicant may register multiple counseling settings and register more than one (1) supervisor in compliance with 4 CSR 95-2.020 by submitting an application for registering or changing supervision and paying the applicable fee as defined in 4 CSR 95-1.020.

(A) A counselor-in-training or provisional licensed professional counselor may be employed at a licensee’s private practice. The counselor-in-training or provisional licensed professional counselor shall solicit therapeutic services according to the full order, control, oversight, and guidance of the registered supervisor.

(B) Payment for counseling services provided by a counselor-in-training or provisional licensed professional counselor shall be made to the supervisor registered and approved by the committee or organization employing or affiliated with the counselor-in-training or provisional licensed professional counselor.

(7) A counselor-in-training or provisional licensed professional counselor shall receive at least one (1) hour of face-to-face supervision per week from the registered supervisor. All face-to-face supervision shall be included in the total number of supervised experience hours required in this rule.

(A) A minimum of two (2) weeks of each month shall consist of one (1) hour of face-to-face per week supervision by the registered supervisor with the counselor-in-training or provisional licensed professional counselor; and

(B) A maximum of two (2) weeks each month may consist of one (1) hour per week of group face-to-face supervision facilitated by the registered supervisor and counselors-in-training or provisional licensed professional counselors.

1. No more than three (3) counselors-in-training or provisional licensed professional counselors may participate in a group supervision session.

2. When there are more than three (3) counselors-in-training, provisional licensed professional counselors, or other professionals present the hour shall count toward the three thousand (3,000) hours of supervision and shall not qualify for one (1) hour face-to-face individual or group supervision.

(C) The use of electronic communication is not acceptable for meeting the supervisory requirement of this rule unless the communication is contemporaneously or simultaneously visually and verbally interactive between the registered supervisor and counselor-in-training or provisional licensed professional counselor.

(8) The supervised counseling experience shall encompass those activities as defined within the scope of practice as defined in section 337.500(6) and (7), RSMo.

(A) The counselor-in-training or provisional licensed professional counselor shall provide services subject to the registered supervisor's order, control, oversight, guidance, and full professional responsibility.

(B) The counselor-in-training or provisional licensed professional counselor shall continue to receive supervision until licensed as a professional counselor.

(9) A counselor-in-training or provisional licensed professional counselor shall not engage in marketing or advertising without including the name and license number of the registered supervisor approved by the committee.

(10) A counselor-in-training or provisional licensed professional counselor shall document all treatment records or reports by listing the name of the counselor-in-training or provisional licensed professional counselor and the applicable credentials; the name of the registered supervisor and the license number of the registered supervisor.

(A) A counselor-in-training may use the acronym CIT for counselor-in-training and a provisional licensed professional counselor may use PLPC. No other acronyms shall be acceptable for the counselor-in-training or provisional licensed professional counselor.

(B) An example format to be used in documenting treatment records and plans is as follows, *Counselor Name, CIT, PLPC, under the supervision of Supervisor Name, license number 000000*.

(C) If the registered supervisor is unable to sign the treatment records or reports, it shall be acceptable to provide a brief, written memorandum or note to the file that is signed by the registered supervisor indicating the information regarding the client has been discussed with the counselor-in-training or the provisional licensed professional counselor.

(11) A counselor-in-training or provisional licensed professional counselor shall comply with all laws and rules relating to the practice of counseling and shall apply for licensure within thirty (30) days of completing the supervised counseling experience. Any counselor-in-training or provisional licensed professional counselor who fails to apply within the thirty (30)-day time period is prohibited from practicing counseling. If additional time is required to submit an application, the applicant send a letter to the committee regarding the reason for additional time and the committee shall advise the counselor-in-training or provisional licensed professional counselor whether additional time is approved.

(A) A counselor-in-training or provisional licensed professional counselors may submit an application for licensure up to thirty (30) days in advance of completing the required hours and months of supervision. Applications received more than sixty (60) days in advance of completion of the required hours and months of supervision shall be rejected by the committee as untimely.

(12) A counselor-in-training or provisional licensed professional counselor shall request and return a change of supervision form within fifteen (15) working days of changing a counseling setting or registered supervisor previously approved by the committee. The change of supervision form shall be accompanied by the required fee as outlined in 4 CSR 95-1.020(1)(C) and shall be considered effective upon receipt of the application in the committee office and contingent upon approval by the committee. If the application for a change in supervision is denied, the applicant shall be informed, in writing, of the reason(s) for the denial.

(13) An applicant may submit supervised experience obtained out of state from a licensed professional counselor, licensed psychologist, or psychiatrist for review by the committee.

(14) An applicant may submit supervised experience obtained in a state that does not have a counselor licensing law or from a state whose licensing laws are not substantially the same as those of this state for review by the committee.

*AUTHORITY: sections 337.510, RSMo Supp 2004 and 337.520, RSMo 2000. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated eleven thousand nine hundred eighty-three dollars and fifty-nine cents (\$11,983.59) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed rule will cost private entities an estimated thirty-one thousand three hundred eighty-six dollars (\$31,386) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE****I. RULE NUMBER****Title 4 -Department of Economic Development****Division 95—Committee for Professional Counselors****Chapter 2 - Licensure Requirements****Proposed Rule - 4 CSR 95-2.020 Supervised Counseling Experience**

Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Committee for Professional Counselors	\$11,983.59
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	<b>\$11,983.59</b>

**III. WORKSHEET****IV. ASSUMPTIONS****1. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE COSTS:**

The division's central mail unit receives all applications for supervision and the division's central processing unit enters the required information into the licensing system and deposits all fees for the committee. In FY04 the committee transferred \$1,679 to cover the personal services expenses for processing all incoming applications. The committee estimates that based upon this cost and FY05 projections of 150 applications to change supervision and 150 applications for licensure it will cost approximately \$3.73 central mail processing per application. Based on the figures above and the committee estimates the processing of \$1,119 annually for the life of the rule.

Salaries for the Executive Director and Licensure Technician II are shared with 3 other boards within the division. The figures below represent the personal service costs supported by the State Committee of Professional Counselors.

Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The cost per hour was then multiplied by the amount of time individual staff spent on the processing of applications. The total cost was based on the cost per applications multiplied by the estimated number of applications.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	NUMBER OF HOURS SPENT ANNUALLY PROCESSING APPLICATIONS	TOTAL COST PER APPLICATION
Executive Director	\$24,550.80	\$34,486.51	\$16.58	13	\$215.54
Licensure Technician II	\$18,988.80	\$26,673.57	\$12.82	749	\$9,605.05
<b>Total Personal Service Cost for Board Staff Per Application</b>					<b>\$9,820.59</b>

It is estimated that the following staff time will be devoted on each application for the following duties:

**Executive Director** -Reviews applications, as needed, for supervision in comparison to the statute and regulations to determine compliance. Reviews agenda materials and responds to specific application questions from applicants. It is estimated that 41% of this position is allocated to licensed professional counselors and of this time 1.5% is spent on reviewing applications for supervision and change of supervision applications. Therefore, of the 2080 hours of worked annually, it is estimated that approximately 13 hours per year are spent each year for processing these applications.

**Licensing Tech II** - Updates PROMO with application detail such as education, proposed supervisor and counseling setting, and application information, determines information required for committee review, requests the detail from the applicant, and prepares materials for agenda - 6 minutes per application. It is estimated that 80% of this position is allocated to licensed professional counselors and of this time 35% is spent on reviewing applications for supervision and change of supervision applications. Therefore, of the 2080 hours of worked annually, it is estimated that approximately 749 hours per year are spent each year for processing these applications.

**Expense and Equipment and Personal Service Dollars for Initial Applications**

Application Printing	\$0.25
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$2.21

Printing License	\$0.35
Envelope for Mailing License	\$0.16
Postage for Mailing License	\$0.35
<b>Expense and Equipment Cost Per Application:</b>	<b>\$3.48</b>

**Total Personal Service and Expense and Equipment Costs**

Transfer Costs	\$1,119
Personal Service	\$9,821
Expense and Equipment	\$1,044
<b>TOTAL</b>	<b>\$11,983.59</b>

2. The figures above are based on FY04 actuals and FY05 estimates. The committee does not anticipate any growth in the number of applications received each year.
3. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**PRIVATE ENTITY FISCAL NOTE****I. RULE NUMBER****Title 4 -Department of Economic Development****Division 95—Committee for Professional Counselors****Chapter 2 - Licensure Requirements****Proposed Rule - 4 CSR 95-2.020 Supervised Counseling Experience**

Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
150	Applicants (Registration of Supervision Fee @ \$100)	\$15,000
150	Applicants (Registration of Supervision Fee @ \$25)	\$3,750
150	Applicants (transcripts @ \$7.50)	\$1,125
300	Applicants (fingerprinting fee @ \$38)	\$11,400
300	Applicants (postage @ \$.37)	\$111
<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>		<b>\$31,386</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The above figures are based on FY04 actuals and FY05 estimates.
2. The Missouri Highway Patrol establishes the fingerprinting fee, therefore, applicants may incur a variance in cost should those fees be increased or decreased.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

NOTE: The committee is statutorily obligated to enforce and administer the provisions of section 337.507, RSMo. Pursuant to section 337.507, RSMo, the committee shall by rule and regulation set the amount of fees authorized by section 337.507, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of section 337.507, RSMo. This proposed amendment is necessary because the committee's projected revenue will not support the expenditures necessary to enforce and administer the provisions of section 337.507, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RULE**

**4 CSR 95-2.021 Supervisors and Supervisory Responsibilities**

*PURPOSE: This rule provides guidelines to licensed practitioners concerning supervising a counselor-in-training or a provisional licensed professional counselor.*

(1) For the purpose of these rules, a registered supervisor for a counselor-in-training or provisional licensed professional counselor in Missouri shall be currently licensed either as a professional counselor, psychologist or psychiatrist.

(A) An applicant for licensure or supervision may submit post-graduate supervised experience from another state for consideration by the committee. The supervisor must have been licensed during the time of supervision in the state where supervised experience occurred as a professional counselor, psychologist or psychiatrist. Credit will not be given if postgraduate supervised experience fails to comply with 4 CSR 95-2.020.

(2) In order to provide supervision for a counselor-in-training or a provisional licensed professional counselor, a registered supervisor shall document the following:

(A) Current licensure as a professional counselor, psychologist, or psychiatrist;

(B) A minimum of two (2) years experience as a licensed professional counselor, licensed psychologist, or psychiatrist in providing counseling pursuant to section 337.500(6) and (7), RSMo; and

(C) Training and experience in counseling and in supervisory activities involving counseling with a resume or vitae detailing course work, workshops, supervision training, and experience as a supervisor of professional counselors or other mental health disciplines.

(3) The registered supervisor shall evaluate and provide feedback to the counselor-in-training or provisional licensed professional counselor relating to 4 CSR 95-2.020.

(4) A registered supervisor may employ a counselor-in-training or provisional licensed professional counselor at the registered supervisor's private practice and shall receive payment for therapeutic services provided by the counselor-in-training or provisional licensed professional counselor.

(5) The registered supervisor shall review and cosign all reports of the counselor-in-training or provisional licensed professional counselor including the registered supervisor's license number with the signature. If the registered supervisor is unable to cosign the reports of the counselor-in-training or provisional licensed professional counselor, it shall be acceptable to provide a brief written memorandum or note to the file, signed by the registered supervisor documenting that the registered supervisor has reviewed the information.

(6) The registered supervisor shall certify that the counselor-in-training or provisional licensed professional counselor has complied with the requirements of supervised counseling experience on a form provided by the committee.

(7) A licensee providing supervision to a counselor-in-training or provisional licensed professional counselor shall not supervise more than three (3) counselors-in-training or provisional licensed professional counselors at one (1) time. Supervisors desiring to provide supervision for more than three (3) counselors-in-training or provisional licensed professional counselors at one (1) time shall provide

a written request to the committee explaining the reason for providing supervision to more than three (3) counselors-in-training or provisional licensed professional counselors.

(8) A supervisor shall avoid conditions and multiple relationships with a counselor-in-training or provisional licensed professional counselor that impair the professional objectivity or increase the risk of exploitation.

(A) The supervisor of a counselor-in-training or provisional licensed professional counselor shall not engage in sexual intimacies with the counselor-in-training or provisional licensed professional counselor during the time of supervision for licensure.

*AUTHORITY: sections 337.510, RSMo Supp. 2004 and 337.520, RSMo 2000. Original rule filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities an estimated one hundred thirty-four dollars (\$134) with a continuous annual growth rate of eighteen dollars and fifty cents (\$18.50) for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PRIVATE ENTITY FISCAL NOTE****I. RULE NUMBER****Title 4 -Department of Economic Development****Division 95—Committee for Professional Counselors****Chapter 2 - Licensure Requirements****Proposed Rule - 4 CSR 95-2.021 Supervision and Supervisory Responsibilities**

Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
200	Applicants (resume/copy fee @ \$.30)	\$60
200	Applicants (postage @ \$.37)	\$74
	<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>	<b>\$134 with a continuous annual growth rate of \$18.50</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The above figures are based on FY04 actuals and FY05 estimates.
2. The submission of credentials for review is a one time process. Once approved by the committee, the supervisor does not have to submit credentials again, therefore, for the purpose of this fiscal note, the board estimates that 200 applicants will submit documentation for supervision during the first year of implementation of the rule and each year thereafter, the committee estimates that approximately 50 people will apply to provide licensure supervision to a counselor-in-training or a provisional licensed professional counselor.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

NOTE: The committee is statutorily obligated to enforce and administer the provisions of section 337.507, RSMo. Pursuant to section 337.507, RSMo, the committee shall by rule and regulation set the amount of fees authorized by section 337.507, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of section 337.507, RSMo. This proposed amendment is necessary because the committee's projected revenue will not support the expenditures necessary to enforce and administer the provisions of section 337.507, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RESCISSON**

**4 CSR 95-2.030 Examinations.** This rule outlined the requirements and procedures for obtaining a professional counselor license by examination.

*PURPOSE: This rule is being rescinded and readopted to more clearly outline the requirements and procedures for obtaining a professional counselor license by examination.*

*AUTHORITY: sections 337.507 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Amended: Filed Aug. 5, 1991, effective Dec. 9, 1991. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RULE**

**4 CSR 95-2.030 Examinations**

*PURPOSE: This rule outlines the requirements and procedures for obtaining a professional counselor license by examination.*

(1) An applicant for provisional licensure or licensure as a professional counselor shall pass the National Counselor Examination (NCE) or its successor examination as administered by the National Board for Certified Counselors (NBCC) or its successor organization. The committee adopts the minimum criterion score established by the NBCC as the passing score. The candidate shall submit the examination fee and required documentation to the NBCC.

(2) The committee shall maintain the applicant's examination answer sheet for one (1) year from the date the examination results were reported to the committee. After one (1) year, the answer sheet will be destroyed.

*AUTHORITY: sections 337.507, RSMo Supp 2004 and 337.520, RSMo 2000. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Amended: Filed Aug. 5, 1991, effective Dec. 9, 1991. Rescinded and readopted: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities an estimated twenty-five thousand five hundred seventy-four dollars (\$25,574) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PRIVATE ENTITY FISCAL NOTE****I. RULE NUMBER****Title 4 -Department of Economic Development****Division 95—Committee for Professional Counselors****Chapter 2 - Licensure Requirements****Proposed Rule - 4 CSR 95-2.030 Examinations**

Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
200	Licensees (examination fee @ \$120)	\$24,000
200	Licensees (transcript @ \$7.50)	\$1,500
200	Licensees (postage @ \$.37)	\$74
<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>		<b>\$25,574</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The above figures are based on FY04 actuals and FY05 estimates.
2. In FY05 the committee estimates it will issue 150 permanent licenses and 200 provisional licenses. Both of these licenses require the applicant pass the national counselor examination. Not all provisional licenses become permanently licensed and many of the permanent licensees passed the national examination to obtain the provisional license. Therefore, for the purpose of this fiscal note, the committee estimates that approximately 200 provisional licensees will pass the national examination and pay the examination administrator the application fee of \$120 and provide a transcript with the examination application, which is estimated to cost \$7.50.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RESCISSION**

**4 CSR 95-2.040 Reexamination.** This rule outlined the requirements and procedures for retaking the licensure examination for professional counselors.

*PURPOSE: This rule is being rescinded to coincide with the committee's reorganization of the rules.*

*AUTHORITY: sections 337.507 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RESCISSION**

**4 CSR 95-2.050 Renewal of License.** This rule provided information to professional counselors licensed in Missouri regarding annual renewal of that license.

*PURPOSE: This rule is being rescinded to coincide with the committee's reorganization of the rules.*

*AUTHORITY: sections 337.507, 337.515 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RESCISSION**

**4 CSR 95-2.060 Name and Address Changes.** This rule outlined the requirements and procedures for notifying the committee of name and address changes.

*PURPOSE: This rule is being rescinded to coincide with the committee's reorganization of the rules.*

*AUTHORITY: sections 337.507 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 2—Licensure Requirements**

**PROPOSED RULE**

**4 CSR 95-2.065 Application for Licensure**

*PURPOSE: This rule outlines the procedure for application for licensure as a professional counselor.*

(1) An application for licensure shall be made on a form(s) provided by the Missouri Division of Professional Registration or the Committee for Professional Counselors PO Box 1335, Jefferson City, MO, 65102-1335, and may be obtained by calling (573) 751-0018, sending a fax to (573) 751-0735, or sending an e-mail to profcounselor@pr.mo.gov. The TDD number is (800) 735-2996.

(2) An application shall not be considered as officially filed with the committee unless it is typewritten or printed in black ink, signed, notarized, accompanied by all documents required by the committee to include fingerprint cards and all applicable fees pursuant to 4 CSR 95-1.040(1)(A) and (F). The fee shall be in the form a cashier's check, personal check, or money order.

(A) A counselor-in-training or provisional licensed professional counselor may submit an application for licensure up to thirty (30) days in advance of completing the required hours and months of supervision. Applications received more than sixty (60) days in advance of completion of the required hours and months of supervision shall be rejected by the committee as untimely.

(3) The completed application, including all supporting material required by the committee shall be received at least thirty (30) days

before the next regularly scheduled meeting of the committee. Applications received less than thirty (30) days before the next regularly scheduled committee meeting may be reviewed at the committee's discretion.

(4) The applicant shall be informed in writing of the committee's decision regarding the application for licensure.

*AUTHORITY: sections 337.507, RSMo Supp. 2004 and 337.520, RSMo 2000. Original rule filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated thirteen thousand two hundred forty-five dollars and eighty-nine cents (\$13,245.89) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed rule will cost private entities an estimated twenty-two thousand six hundred fifty dollars (\$22,650) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 95—Committee for Professional Counselors**

**Chapter 2 - Licensure Requirements**

**Proposed Rule - 4 CSR 95-2.065 Application for Licensure**

Prepared November 5, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT TO THE MISSOURI DENTAL committee**

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Committee for Professional Counselors	\$13,245.89
Total Annual Cost of Compliance for the Life of the Rule	\$13,245.89

**III. WORKSHEET**

**IV. ASSUMPTIONS**

**1. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE COSTS:**

The division's central mail unit receives all applications for licensure and the division's central processing unit enters the required information into the licensing system and deposits all fees for the committee. In FY04 the committee transferred \$1,679 to cover the personal services expenses for processing all incoming applications. The committee estimates that based upon this cost and FY05 projections of 150 applications it will cost approximately \$3.73 central mail processing per application. Based on the figures above and the committee estimates the processing of \$559 annually for the life of the rule.

Salaries for the Executive Director and Licensure Technician II are shared with other boards within the division. The figures below represent the personal service costs supported by the State Committee of Professional Counselors.

Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications. The total cost was based on the cost per application multiplied by the estimated number of applications.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	NUMBER OF HOURS SPENT ANNUALLY PROCESSING APPLICATIONS	TOTAL COST PER APPLICATION
Executive Director	\$24,550.80	\$34,486.51	\$16.58	26	\$431.08
Licensure Technician II	\$18,988.80	\$26,673.57	\$12.82	915	\$11,733.80
Total Personal Service Cost for Board Staff Per Application					\$12,164.89

It is estimated that the following staff time will be devoted on each initial application for the following duties:

**Executive Director** -Reviews applications, as needed, for licensure in comparison to the statute and regulations to determine compliance. Reviews agenda materials and responds to specific application questions from applicants. It is estimated that 3% of this position is allocated to licensed professional counselors and of this time 1.5% is spent on reviewing applications for supervision and change of supervision applications. Therefore, of the 2080 hours of worked annually, it is estimated that approximately 26 hours per year are spent each year for processing these applications.

**Licensing Tech II** - Updates PROMO with application detail such as education, and application information, determines information required for committee review, requests the detail from the applicant, and prepares materials for agenda - 6 minutes per application. It is estimated that 80% of this position is allocated to licensed professional counselors and of this time 55% is spent on reviewing applications for supervision and change of supervision applications. Therefore, of the 2080 hours of worked annually, it is estimated that approximately 915 hours per year are spent each year for processing these applications.

**Committee Members** - review applications to determine compliance with applicable laws and regulations regarding licensure. Personal service costs for board member per diem was reported in 4 CSR 95-1.005.

**Expense and Equipment and Personal Service Dollars for Initial Applications**

Application Printing	\$0.25
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$2.21
Printing License	\$0.35
Envelope for Mailing License	\$0.16
Postage for Mailing License	\$0.35
<b>Expense and Equipment Cost Per Application:</b>	<b>\$3.48</b>

**Total Personal Service and Expense and Equipment Costs**

Transfer Costs	\$559
Personal Service	\$12,165
Expense and Equipment	\$522
<b>TOTAL</b>	<b>\$13,246</b>

2. The figures above are based on FY04 actuals and FY05 estimates. The committee does not anticipate any growth in the number of applications received each year.
3. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

## **PRIVATE ENTITY FISCAL NOTE**

### **I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 95—Committee for Professional Counselors**

**Chapter 2 - Licensure Requirements**

**Proposed Rule - 4 CSR 95-2.065 Application for Licensure**

Prepared November 5, 2004 by the Division of Professional Registration

### **II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:</b>	<b>Classification by type of the business entities which would likely be affected:</b>	<b>Estimated annual cost of compliance with the amendment by affected entities:</b>
150	Applicants (application fee)	\$22,500
150	Applicants (postage @ \$1.00)	\$150
150	Supervisors (postage @ \$.37)	\$56
<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>		<b>\$22,650</b>

### **III. WORKSHEET**

See table above.

### **IV. ASSUMPTION**

1. The above figures are based on FY04 actual and FY05 estimates.
2. The committee assumes with the additional documentation that may be required, applicants are likely to pay \$1.00 for postage. The postage estimated for supervisors will cover the cost to mail the required form verifying hours, time and performance of the applicant.
3. Because transcripts are mailed as part of the registration of supervision process it is anticipated that the majority of applicants will already have a transcript on file. The committee also assumes that many applicants have authorized release of the examination scores to the committee, therefore, the majority of applicants will already have an examination score on file with the committee.
4. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT****Division 95—Committee for Professional Counselors  
Chapter 2—Licensure Requirements****PROPOSED RESCISSION**

**4 CSR 95-2.070 Reciprocity.** This rule provided information to those desiring licensure by reciprocity.

*PURPOSE: This rule is being rescinded to coincide with the committee's reorganization of the rules.*

*AUTHORITY: sections 337.507, 337.510 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT****Division 95—Committee for Professional Counselors  
Chapter 2—Licensure Requirements****PROPOSED RESCISSION**

**4 CSR 95-2.080 Endorsement of Written Examination Score.** This rule explained how an applicant may apply the score of an examination taken previously to the licensure requirements in Missouri.

*PURPOSE: This rule is being rescinded to coincide with the committee's reorganization of the rules.*

*AUTHORITY: sections 337.507, 337.510 and 337.520, RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed May 2, 1989, effective July 27, 1989. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT****Division 95—Committee for Professional Counselors  
Chapter 3—Professional Responsibility****PROPOSED RESCISSION**

**4 CSR 95-3.010 Scope of Coverage.** This rule described the scope of coverage and organization of the ethical standards for counselors, authorized in section 337.520(12), RSMo.

*PURPOSE: This rule is being rescinded and readopted to consolidate and clarify the language of other regulations in this chapter.*

*AUTHORITY: section 337.520, RSMo 1986. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Rescinded and readopted: Filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT****Division 95—Committee for Professional Counselors  
Chapter 3—Professional Responsibility****PROPOSED RULE****4 CSR 95-3.010 Scope of Coverage**

*PURPOSE: This rule describes the scope of coverage and organization of the ethical standards for counselors, authorized in section 337.520(12), RSMo.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.*

(1) The ethical standards for counselors (hereinafter standards) shall apply to a licensed professional counselor, registered supervisor that is a licensed professional counselor, provisional licensed professional counselor, counselor-in-training, and an applicant for licensure and/or supervision (hereinafter referred to as counselor or counselors). A violation of these standards constitutes unprofessional conduct and is sufficient reason for disciplinary action pursuant to section 337.525, RSMo.

(2) A counselor shall practice within the boundaries of his/her competence, based upon education and training.

(3) A counselor shall not accept any form of remuneration that exploits the therapeutic relationship and a counselor shall not allow the pursuit of financial gain or other personal benefit to interfere with the exercise of sound, professional judgment and skills.

(4) A counselor shall not misrepresent his/her licensure status or educational credentials.

(5) A counselor shall display his/her license or provisional license in a conspicuous place that is readily accessible to a client or patient.

(6) When administering, scoring, or interpreting any tests or appraisal instruments, a counselor shall be adequately educated and trained. For the purpose of this rule, adequate training shall be defined as formal, graduate course work that involves the administration and interpretation of the instrument or advance training, such as seminars sponsored by the test publisher. A licensed professional counselor shall have training in the utilization of the *Diagnostic and Statistical Manual of Mental Disorders* (Fourth Edition, Text Revision), by the American Psychiatric Association, 1400 K Street NW, Washington, DC 20005, which is incorporated herein by reference, if it is used in the assessment process. This rule does not incorporate any subsequent amendments or additions.

(7) A client or patient (hereinafter referred to as client) is an individual for whom professional counseling, as defined in section 337.500(7), RSMo, is provided. A corporate entity or other organization can be a client when the therapeutic relationship is between the counselor and individuals within the entity or organization.

(A) When a corporation or other organization is the client, rules of confidentiality apply to information pertaining to the organization; include personal information about an individual when obtained in the proper course of a contract. The information about an individual subject to confidential control of the organization, not of the individual, can be made available to the organization, unless specifically stated in the contract to that individual that there is a reasonable expectation by that individual that the information was obtained in a separate therapeutic relationship with the individual and is subject to therapist/client confidentiality.

(8) For the purpose of the ethical standards for counselors, a therapeutic relationship shall encompass any of the following:

(A) A mutual understanding of the counseling process as evidenced by a signed informed consent agreement as defined in 4 CSR 95-3.015(1)(A)-(H);

(B) Utilization of professional counseling skills as defined in section 337.500(7), RSMo;

(C) Utilization of the therapeutic relationship to assist the client in learning to relate to themselves and others;

(D) A relationship between a counselor and client seeking professional counseling service as defined in 337.500(7), RSMo; and

(E) Within the limitations of the law, a relationship in which the counselor shall not interfere with the client's right to make life decisions.

(9) For the purpose of these ethical standards for counselors, an exploitative relationship shall be defined as any relationship between the registered supervisor and counselor-in-training or provisional licensed professional counselor, or counselor and client that may exploit or cause harm to the counselor-in-training, provisional licensed professional counselor or client.

(A) For the purpose of these standards, to exploit means to take unfair advantage of the client, counselor-in-training, or provisional licensed professional counselor.

(10) The counselor shall not undertake or continue a therapeutic relationship with a client when the objectivity or competency of the counselor is or is reasonably expected to be impaired because of emotional, mental, psychological, or substance abuse disorder. If a

counselor's objectivity or competency becomes impaired due to an emotional, mental, psychological or substance abuse disorder after a therapeutic relationship has been initiated, the counselor shall terminate the therapeutic relationship by notifying the client in writing of the termination and provide written documentation that the client was informed concerning the termination of the therapeutic relationship.

(A) Documentation shall be in writing and include information that a referral(s) was made.

(11) A counselor shall not delegate therapeutic or supervisory responsibilities to a person that is not qualified or does not possess the appropriate credentials for the therapy or services to be provided.

(12) While providing psychotherapy or professional counseling or within the twenty-four (24) months following completion or termination of psychotherapy or professional counseling a counselor shall not engage in the following:

(A) Sexual intercourse, defined as any genital contact with the client including, but not limited to, vaginal intercourse, sodomy, oral and/or anal copulation, or any penetration of the anal or vaginal opening by any body part or object;

(B) Kissing with the mouth, lips, or tongue;

(C) Touching or caressing of the client's breasts, genitals, or buttocks;

(D) Touching or caressing the other body parts of a client in an exploitative manner;

(E) Exposing one's breast, genitals or buttocks in an exploitative manner or encouraging another to expose him/herself for the purpose of the counselor's sexual gratification; and

(F) Deliberate or repeated comments or gestures of an exploitative nature.

*AUTHORITY: sections 337.520 and 337.525, RSMo 2000. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Rescinded and readopted: Filed July 3, 1990, effective Dec. 31, 1990. Rescinded and readopted: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 95—Committee for Professional Counselors**

#### **Chapter 3—Professional Responsibility**

#### **PROPOSED RULE**

##### **4 CSR 95-3.015 Client Welfare**

*PURPOSE: This rule provides the ethical principles governing the practice of counseling a client and supervision.*

(1) Before beginning a therapeutic relationship, a counselor shall explain and document the following elements of informed consent:

(A) Goals of the therapeutic relationship;

(B) Services the counselor will provide;

- (C) Behavior expected of the client;
- (D) Risks and benefits of therapeutic procedures;
- (E) Qualifications and credentials;
- (F) Financial considerations and arrangements;
- (G) Limits to confidentiality regarding individual, couple, family, and group therapy; and
- (H) If utilized, taping or recording of sessions, and how the tapes will be used and stored.

(2) The counselor shall inform clients of the voluntary or mandatory nature of the therapy, assessment, treatment, research, education or training procedure. When the therapy, assessment, treatment, research, education or training procedure is voluntary, the counselor shall inform the client, student, research participant, counselor-in-training, or provisional licensed professional counselor of the freedom of choice and any alternatives to participation.

(3) If an individual, other than the counselor, is able to obtain access to confidential information, the counselor shall disclose this possibility. The counselor shall explain how records are stored to insure confidentiality of the client, counselor-in-training, provisional licensed professional counselor, or research participant. This information shall be part of the informed consent.

(A) The counselor shall safeguard the confidential information obtained in the course of practice, research, supervision, or other duties relating to a therapeutic relationship.

1. A counselor shall maintain confidentiality in creating, storing, accessing, transferring, and disposing the records of a client or counselor-in-training which are under the counselor's control regardless of whether the records are written, automated, or in any other medium.

(B) Information obtained within the context of the therapeutic relationship or during supervised counseling shall be considered confidential after the therapeutic relationship or supervised experience has ended.

(4) A counselor shall not allow the pursuit of financial gain or other personal benefit to interfere with the exercise of sound professional judgment and skills.

(A) In determining whether to offer therapeutic services to a person already receiving similar services elsewhere, the counselor shall consider the treatment issues and the welfare of the client. The counselor shall discuss these issues with the client to minimize the probable risks of confusion and conflict.

(5) Within the limits of the law, a counselor shall report to the committee all knowledge pertaining to known or suspected violations of the laws and regulations governing the practice of counseling as defined in section 337.500(6) and (7), RSMo and any other applicable laws or rules.

(6) Within the limits of the law, and after receiving any necessary written client consent, a counselor shall respond to all requests for information and correspondence from the committee.

(7) A counselor providing therapeutic services to a client shall maintain records that include the following:

- (A) Informed consent as defined in subsections (1)(A)–(1)(H);
- (B) The reason(s) for seeking therapeutic services, clinical impression(s), treatment plan and documentation of termination;
- (C) Date, fee, and therapeutic service provided by the counselor;
- (D) Assessment results or the evaluative results relevant to the therapeutic relationship; and
- (E) Evidence of receiving the client's consent concerning the counselor's consultation with others.

(8) To meet the requirements of these ethical standards for counselors, but not necessarily for other legal purposes, the counselor

shall assure that all data entries to treatment records are maintained for a period of five (5) years after the last date of service. The counselor shall comply with all other applicable state and federal laws and rules regarding record retention.

(9) A counselor planning or conducting research shall comply with federal, state, and local laws or rules and applicable standards of ethical procedures regarding research with human subjects.

(10) When conducting research, the counselor shall clearly communicate to research participants, in writing or verbally, the following:

(A) The experience the participant is likely to have during and after the research;

(B) The voluntary, mandatory, and/or remunerative nature of the research;

(C) The research participant's right to decline participation or withdraw from the research at any time without penalty;

(D) The obligations and responsibilities of the research participant and counselor;

(E) The procedures for how the data derived from the research will be used;

(F) The procedures for post research follow-up; and

(G) The procedures for obtaining information regarding general results and conclusions of the research.

*AUTHORITY:* sections 337.520 and 337.525, RSMo 2000. Original rule filed Dec. 1, 2004.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 95—Committee for Professional Counselors

#### Chapter 3—Professional Responsibility

#### PROPOSED RESCISSON

**4 CSR 95-3.020 Definitions.** This rule defined certain terms used in the ethical standards for counselors authorized in section 337.520(12), RSMo.

*PURPOSE:* The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

*AUTHORITY:* section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.030 Ethical Considerations of Canon 1—Moral and Legal Standards.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors, as they pertained to the disciplinary rules of Canon 1—Moral and Legal Standards.

**PURPOSE:** The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

**AUTHORITY:** section 337.520, RSMo Supp. 1989. Original rule filed July 3, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 4, 1992, effective June 25, 1992. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.040 Disciplinary Rules of Canon 1—Moral and Legal Standards.** Pursuant to section 337.520(12), RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 1—Moral and Legal Standards.

**PURPOSE:** The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.050 Ethical Considerations of Canon 2—Counselor-Client Relationship.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 2—Counselor-Client Relationship.

**PURPOSE:** The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 95—Committee for Professional Counselors**  
**Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.060 Disciplinary Rules of Canon 2—Counselor-Client Relationship.** Pursuant to section 337.520(12), RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 2—Counselor-Client Relationship.

**PURPOSE:** The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

###### **PROPOSED RESCISSION**

**4 CSR 95-3.070 Ethical Considerations of Canon 3—Professional Relationships.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 3—Professional Relationships.

**PURPOSE:** The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

###### **PROPOSED RESCISSION**

**4 CSR 95-3.080 Disciplinary Rules of Canon 3—Professional Relationships.** Pursuant to section 337.520(12), RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 3—Professional Relationships.

**PURPOSE:** The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

###### **PROPOSED RESCISSION**

**4 CSR 95-3.090 Ethical Considerations of Canon 4—Group Relationships.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 4—Group Relationships.

**PURPOSE:** The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

###### **PROPOSED RESCISSION**

**4 CSR 95-3.100 Disciplinary Rules of Canon 4—Group Relationships.** Pursuant to section 337.520(12), RSMo, this rule

defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 4—Group Relationships.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

#### **PROPOSED RESCISSION**

**4 CSR 95-3.110 Ethical Considerations of Canon 5—Public Statements/Fees.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 5—Public Statements/Fees.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

#### **PROPOSED RESCISSION**

**4 CSR 95-3.120 Disciplinary Rules of Canon 5—Public Statements/Fees.** Pursuant to section 337.520 (12), RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 5—Public Statements/Fees.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

#### **PROPOSED RESCISSION**

**4 CSR 95-3.130 Ethical Considerations of Canon 6—Confidentiality.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 6—Confidentiality.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 95—Committee for Professional Counselors** **Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.140 Disciplinary Rules of Canon 6—Confidentiality.** Pursuant to section 337.520(12), RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 6—Confidentiality.

*PURPOSE: The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

*AUTHORITY: section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors  
Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.150 Ethical Considerations of Canon 7—Assessment.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 7—Assessment.

*PURPOSE: The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

*AUTHORITY: section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors  
Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.160 Disciplinary Rules of Canon 7—Assessment.** Pursuant to section 337.520(12) RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 7—Assessment.

*PURPOSE: The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

*AUTHORITY: section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors  
Chapter 3—Professional Responsibility**

**PROPOSED RESCISSION**

**4 CSR 95-3.170 Ethical Considerations of Canon 8—Research Activities.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 8—Research Activities.

*PURPOSE: The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

*AUTHORITY: section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors  
Chapter 3—Professional Responsibility**

## **PROPOSED RESCISSION**

**4 CSR 95-3.180 Disciplinary Rules of Canon 8—Research Activities.** Pursuant to section 337.520(12) RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 8—Research Activities.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 95—Committee for Professional Counselors Chapter 3—Professional Responsibility**

## **PROPOSED RESCISSION**

**4 CSR 95-3.190 Ethical Considerations of Canon 9—Competence.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 9—Competence.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 95—Committee for Professional Counselors Chapter 3—Professional Responsibility**

## **PROPOSED RESCISSION**

**4 CSR 95-3.200 Disciplinary Rules of Canon 9—Competence.** Pursuant to section 337.520(12), RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 9—Competence.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 95—Committee for Professional Counselors Chapter 3—Professional Responsibility**

## **PROPOSED RESCISSION**

**4 CSR 95-3.210 Ethical Considerations of Canon 10—License Credentials.** This rule was a guide to assist applicants and licensees regulated by sections 337.500–337.540, RSMo in understanding the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 10—License Credentials.

**PURPOSE:** *The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.*

**AUTHORITY:** section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 95—Committee for Professional Counselors Chapter 3—Professional Responsibility**

## PROPOSED RESCISSION

**4 CSR 95-3.220 Disciplinary Rules of Canon 10—License Credentials.** Pursuant to section 337.520(12), RSMo, this rule defined the form and content of ethical standards for counselors as they pertained to the disciplinary rules of Canon 10—License Credentials.

*PURPOSE:* The committee is proposing to rescind this rule and consolidate and clarify language regarding client welfare in 4 CSR 95-3.010 and 4 CSR 95-3.015.

*AUTHORITY:* section 337.520, RSMo 1986. Original rule filed July 3, 1990, effective Dec. 31, 1990. Rescinded: Filed Dec. 1, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 95—Committee for Professional Counselors  
Chapter 4—Complaint Handling**

## PROPOSED RESCISSION

**4 CSR 95-4.010 Public Complaint Handling and Disposition Procedure.** This rule established a procedure for the receipt, handling and disposition of public complaints pursuant to the mandate of section 620.010.16(6), RSMo 1986.

*PURPOSE:* This rule is being rescinded and readopted in Chapter 1 to coincide with the committee's reorganization of the rules.

*AUTHORITY:* sections 337.520, RSMo Supp. 1989 and 620.010.15(6), RSMo Supp. 1990. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Amended: Filed Feb. 4, 1992, effective June 25, 1992. Rescinded: Filed Dec. 1, 2004.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Committee for Professional Counselors, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 220—State Board of Pharmacy  
Chapter 1—Organization and Description of Board**

## PROPOSED AMENDMENT

**4 CSR 220-1.010 General Organization.** The board is proposing to add a new section (6) and renumber the remaining section accordingly.

*PURPOSE:* This amendment defines the term "open premises" as used in Chapter 338, RSMo.

(6) "Open premises" as used in Chapter 338, RSMo means all premises accessible to employees in the regular course of any business which engages in practices regulated by this chapter, including, but not limited to, locked or otherwise secured storage areas that are used for the purpose of storing drugs, poisons, chemicals, or equipment used in any practice regulated by this chapter, and/or storage areas that are used for the purpose of storing records related to any practice regulated by this chapter.

(7) The public may obtain information from the board, or make submissions or requests to the board, by writing the executive director of the board. The information request shall be reviewed for appropriate action.

*AUTHORITY:* sections 338.110, 338.140 and 338.280, RSMo [1994] 2000. Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed April 14, 1982, effective July 11, 1982. Amended: Filed Jan. 3, 1990, effective May 11, 1990. Amended: Filed Aug. 25, 1996, effective April 30, 1996. Amended: Filed Dec. 1, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or e-mail at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 220—State Board of Pharmacy  
Chapter 2—General Rules**

## PROPOSED AMENDMENT

**4 CSR 220-2.010 Pharmacy Standards of Operation.** The board is proposing to delete the annotations immediately following this rule in the *Code of State Regulations*.

*PURPOSE:* This amendment deletes the annotations that immediately follow this rule in the *Code of State Regulations*.

*AUTHORITY:* sections 338.010, 338.140, 338.240 and 338.280, RSMo 2000 and 338.210, RSMo Supp. [2002] 2003. Original rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 1, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or e-mail at [pharmacy@pr.mo.gov](mailto:pharmacy@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 220—State Board of Pharmacy Chapter 2—General Rules

###### PROPOSED AMENDMENT

**4 CSR 220-2.020 Pharmacy Permits.** The board is proposing to amend sections (1), (2), (3) and (9) and delete the annotations immediately following this rule in the *Code of State Regulations*.

**PURPOSE:** This amendment allows for issuance of a temporary pharmacy permit, removes the thirty (30)-day grace period for filing of an application after a change of ownership occurs, and adds limited liability companies to what is considered a separate person concerning ownership. This amendment also deletes the annotations that immediately follow this rule in the *Code of State Regulations*.

(1) *[The fiscal year of the board shall be as provided by law.]* All permits for the operation of a pharmacy shall expire on the date specified by the director of the Division of Professional Registration *[by appropriate rule]* pursuant to 4 CSR 230-2.031.

(2) A pharmacy permit may be issued on the application of the owners. If the owner is a corporation *[or partnership]*, an officer of the corporation *[or a partner]* must sign the application as the applicant. If the owner is a partnership, a partner must sign the application as the applicant. If the owner is a limited liability partnership, a general partner must sign the application as the applicant. If the owner is a limited liability company, a member must sign the application as the applicant. In the case where a pharmacy is owned and operated by a person(s) who is a licensed pharmacist and in active charge of the pharmacy, the application for permit can be made by either party.

(3) When a pharmacy changes ownership, the original permit becomes void on the effective date of the change of ownership. Before any new business entity resulting from the change opens a pharmacy for business, it must obtain a new permit from the board. *[However, a grace period of thirty (30) days will be allowed after the change of ownership.]* A temporary license shall be issued once a completed application and fee have been received by the board. The effective date of the temporary license shall be the date the change of ownership is listed as effective on the application. Such license shall remain in effect until a permanent license is issued or denied by the board.

(B) *[A corporation is considered by law to be a separate person.]* If a corporation owns a pharmacy, it is not necessary to obtain a new license if the owners of the stock change. *[However, as a separate person, if the corporation begins ownership of a pharmacy or ceases ownership of that pharmacy, a new license must be obtained regardless of the relationship of the previous or subsequent owner to the corporation. It is not necessary to obtain a new license when ownership of the stock in the corporation changes.]* If a limited liability partnership or a limited liability company owns a pharmacy, it is not necessary to obtain a new license if the partners or members of

the company change, as long as the partnership or company is not dissolved by that change. It is necessary to file written notice with the State Board of Pharmacy within ten (10) days after *[that]* a change occurs in the ownership of corporation stock, or in partners in a limited liability partnership, or in members in a limited liability company. This notification must be in writing and certified. However, when a corporation, limited liability partnership, or limited liability company begins ownership of a pharmacy or ceases ownership of a pharmacy, a new license must be obtained regardless of the relationship between the previous and subsequent owners.

(9) The following classes of pharmacy permits or licenses are hereby established:

(D) Class D: *[Home Health] Non-Sterile Compounding.* A pharmacy that provides services as defined in section 338.010, RSMo *[for patients in a public or private residence who are under the supervision of a home health or hospice agency]* and provides a non-sterile compounded product as defined in 4 CSR 220-2.400(1) which comprises five percent (5%) or more of the annual prescription volume of the pharmacy;

(H) Class H: Sterile Product Compounding. A pharmacy that provides services as defined in section 338.010, RSMo and provides a sterile pharmaceutical as defined in 4 CSR 220-2.200/(1)/(11)(I) and *[(15)](AA)*. Pharmacies providing sterile pharmaceuticals within the exemptions outlined in 4 CSR 220-2.200(25) shall not be considered a Class H pharmacy; *[and]*

(I) Class I: Consultant. A location where any activity defined in section 338.010, RSMo is conducted, but which does not include the procurement, storage, possession or ownership of any drugs from the location<./>; /

(J) Class J: Shared Service. A pharmacy that provides services as defined in section 338.010, RSMo, and is involved in the processing of a request from another pharmacy to fill or refill a prescription drug order, or that performs or assists in the performance of functions associated with the dispensing process, drug utilization review (DUR), claims adjudication, refill authorizations and therapeutic interventions<./>; and

(K) Class K: Internet. A pharmacy that provides services as defined in section 338.010, RSMo, and is involved in the receipt, review, preparation, compounding, dispensing or offering for sale any drugs, chemicals, medicines or poisons for any prescription originating from the Internet. A prescription must be provided by a licensed practitioner authorized by law to prescribe drugs and who has performed a sufficient physical examination and clinical assessment of the patient. The use of a form, questionnaire and/or telephone interview to fulfill the examination or assessment of a patient shall not be considered sufficient to provide or execute a valid prescription.

**AUTHORITY:** sections 338.140, RSMo 2000 and 338.220, RSMo Supp. *[2001 and Omnibus State Reorganization Act of 1974 (Appendix B)]* 2003. Original rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed amendment will cost state agencies and political subdivisions approximately thirty-two dollars and thirty cents (\$32.30) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

**PRIVATE COST:** The proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the State

*Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or e-mail at [pharmacy@pr.mo.gov](mailto:pharmacy@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 220 - State Board of Pharmacy**

**Chapter 2 - General Rules**

**Proposed Rule - 4 CSR 220-2.020 Pharmacy Permits**

Prepared October 4, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Annual Cost of Compliance</b>
<b>State Board of Pharmacy</b>	<b>\$32.30</b>
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	<b>\$32.30</b>

**III. WORKSHEET**

Expenditure of Money

<b>CLASSIFICATION</b>	<b>Fee Amount</b>	<b>Number in Class</b>	<b>AGGREGATE COST</b>
Temporary Permit	\$0.03	32	\$0.96
Envelope for Mailing Permit	\$0.16	32	\$5.12
Postage for Mailing Permit	\$0.37	32	\$11.84

**Total Expense and Equipment Cost** \$17.92

The Licensure Technician I will process the change of ownership applications, update the division's licensing system, issue and mail the temporary pharmacy permit. The figures below represent the personal service costs paid by the State Board of Pharmacy for the temporary pharmacy permit process.

<b>STAFF</b>	<b>ANNUAL SALARY</b>	<b>SALARY TO INCLUDE FRINGE BENEFIT</b>	<b>HOURLY SALARY</b>	<b>COST PER MINUTE</b>	<b>TIME PER REQUEST</b>	<b>COST PER REQUEST</b>	<b>TOTAL COST</b>
Licensure Technician I	\$20,904	\$28,032	\$13.48	\$0.22	2 minutes	\$0.45	\$14.38

**Total Personal Service Costs** \$14.38

**IV. ASSUMPTION**

1. In FY03 the board received 185 pharmacy permit applications and approximately 32 of those were change of ownership applications. For the purposes of estimating fiscal impact, the board assumes that an average of 32 applications will be received annually.
2. Pharmacy permit applications are currently received by the division's central processing unit. The board does not believe any additional time or resources will be needed for the processing of these applications. Therefore, no cost associated with the division's central processing unit were calculated into this fiscal note.
3. Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time the Licensure Technician I will spend on the processing change of ownership applications. The total cost was based on the cost per request multiplied by the estimated number of requests received on an annual basis.
4. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**NOTE:** The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 220—State Board of Pharmacy**  
**Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 220-2.030 Educational and Licensing Requirements.** The board is proposing to amend sections (2)–(4) and delete the annotations immediately following this rule in the *Code of State Regulations*.

**PURPOSE:** *This rule outlines requirements for internship standards and training, exam scoring procedures, procedures for examination score transfer and licensure transfer and defines accredited colleges.*

(2) *[All applicants for examination shall file an application for examination with the executive director at least twenty-one (21) days prior to the date of the examination.]* Application shall be made on forms provided by the executive director. The candidate shall furnish satisfactory evidence on the application that s/he has graduated from an approved school of pharmacy and present affidavits certifying the completion of *[fifteen hundred (1,500) hours of practical experience]* all practical experience programs that are required and are approved by the board. An application will be considered filed *[if it is received by the deadline,]* even though it may have to be returned to the applicant for minor correction or completion. However, an application will not be considered filed if it has to be returned to the applicant for any one (1) or more of the following reasons:

(C) Incomplete or missing signature and notarization. In this instance, the application will be returned to the applicant and will not be considered filed until it has been returned with all corrections made. *[In addition, it must be postmarked on or before the appropriate deadline date. If an application is received with a postmark after the deadline date, it will be rejected and the candidate will be notified that s/he is not eligible to sit for that particular examination.]* The applicant must take the examination(s) within three hundred sixty-five (365) days of having been determined eligible, to avoid forfeiture of eligibility and fees.

(3) Requirements for Practical Experience.

(A) Advanced practice experience is defined as practice based training which is documented as required, complies with training standards outlined in this rule and is considered a part of the school curriculum for training students within standards approved by the board of pharmacy.

*/(A)/(B) Requirements for Training as a Pharmacy Intern.*

1. Every person who desires to gain practical experience in Missouri toward licensure as a pharmacist must apply for a license as an intern pharmacist. An application for licensure shall be made on forms provided by the Missouri Board of Pharmacy and must be accompanied by the appropriate licensure fee.

2. An applicant for licensure as a pharmacy intern shall be currently enrolled in or graduated from a college that is approved by the Missouri Board of Pharmacy and that applicant may apply for licensure after the completion of thirty (30) hours of college course work in an approved school of pharmacy.

3. *[The minimum practical experience shall be fifteen hundred (1,500) hours of training to qualify to take the examination for licensure as a pharmacist.]* Advanced practice experience hours shall include a minimum of one hundred sixty (160) hours in a community/ambulatory pharmacy practice component, an institutional pharmacy practice component and a clinical and/or related area of pharmacy practice component.

*[4. Not more than forty (40) hours' credit per week shall be given for experience obtained.]*

*[5.]* **14. [Practical]** Advanced practice experience may be gained within non-licensed programs, provided these programs have received prior approval by the board. *[The board shall approve the number of hours to be awarded to students within an approved non-licensed program on a case-by-case basis. The maximum number of hours that the board may approve for a program shall be set at one thousand (1,000) hours.]* The board shall make its determination concerning program approval and the number of hours to grant to an approved program through review of an application. The board may request additional information, interview program participants or complete site inspections before a decision on an application is made.

*[6. A maximum of seven hundred fifty (750) hours may be obtained in a structured externship program which is part of the college curriculum.*

*[7. A maximum of seven hundred fifty (750) hours may be obtained in a Class I: Consultant pharmacy that is licensed by the board of pharmacy.*

*(B) It shall be incumbent upon both the supervisor (preceptor) of a certified intern training pharmacy and the pharmacy intern to complete an accurate record of time spent by the intern in acquiring practical experience. The Missouri Board of Pharmacy may request to see the Social Security payment record of the intern to determine the exact time of employment. These records of time shall be kept current and open for inspection by any member of the Missouri Board of Pharmacy or its inspectors.]*

*(C) [Practical] Advanced practice experience shall be computed from the date of licensure as a pharmacy intern *[and practical experience shall be credited only when it has been obtained in an approved intern training]* pharmacy.*

*(D) Pharmacy interns working under the direct supervision of a preceptor and expecting to qualify for the licensed pharmacist examination must notify the board of the beginning and end of their employment under the supervision of a preceptor within five (5) days of the beginning and ending of their employment.*

*1. The intern pharmacist must submit his/her employment information on a form supplied by the Missouri Board of Pharmacy and must identify the licensed pharmacist who will act as preceptor along with the certification number and permit number of the approved intern training pharmacy.*

*2. If a licensed intern has a change in employment, a change in preceptor, or both, the intern must complete the proper form to be furnished by the board, attach the intern license and return both documents to the board office. When board records have been updated, a corrected license will be mailed to the intern pharmacist.*

*(E) A pharmacy intern must file an affidavit for intern training experience executed by a pharmacy preceptor on a form furnished by the board. This form will include, at a minimum, a report of contract hours completed during the internship period.]*

*/(F)/(D) Reports must be filed by the intern with the board in order for any hours to be counted toward the required practical experience. The reports shall include, but not be limited to:*

1. Application for *[registration]* licensure as an intern; and
2. Intern employment form; and
3. Intern evaluation of each training period or site.]
2. Academic internship report(s).

*(G)/(E) Advanced practice [Practical] experience in intern training given in a state other than Missouri may be allowed by the board if, in the opinion of the board, the requirements of the state of the applicant's residence and experience are equal in the minimum requirements of the board for intern training in Missouri. Intern hours earned in another state must be certified directly to the Missouri Board of Pharmacy from the board of pharmacy of the state in which the training occurred.*

*[(H) Any intern pharmacist who has an intern registration number and provides all information as required for reporting employment and intern hours may submit hours toward practical experience requirements that were acquired through June 30, 1993, without obtaining a license as a pharmacy intern from the board.]*

*[(I)] (F) A pharmacy preceptor shall be a [Missouri] licensed pharmacist in good standing with the board. [employed full-time at a Certified Intern Training Pharmacy.]*

*(J) Preceptors should designate what official written guides or references will be utilized for training interns while under their direction and supervision.*

*(K) The term supervision as used in connection with the intern training requirement shall mean that, in the pharmacy where intern training is being obtained, a preceptor shall be in personal contact with and actually giving instruction to the intern during the period of that training. The ratio of interns to the full-time employment preceptors where more than one (1) intern is employed must not be greater than one (1) intern to each preceptor.*

*(L) The preceptor in a Certified Intern Training Pharmacy must signify a willingness to cooperate with the Missouri Board of Pharmacy in developing intern training and to report to the board from time-to-time if requested on progress and aptitude of any intern under his/her supervision. Progress report forms are furnished by the board.]*

*[(M)](G) [In the management of a Certified Intern Training Pharmacy, the e/Emphasis must be on activities connected with pharmaceutical care through the interpretation and evaluation of prescription orders; the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders; the proper and safe storage of drugs and devices and the maintenance of proper records of them; and consultation with patients and other health care practitioners about the safe and effective use of drugs and devices.*

*[(N)](H) The provisions of this rule are not applicable to those students who gain their [practical] advanced practice experience in another state. The minimum practical experience shall be fifteen hundred (1,500) hours of advanced practice experience to qualify to take the examination for licensure as a pharmacist. [However, if] If any portion of the required fifteen hundred (1,500) hours are to be earned in Missouri, the applicant must be licensed as an intern under the provisions of this rule. When intern hours are to be earned within the state of Missouri by a student enrolled in or by a graduate of an out-of-state accredited school of pharmacy, the candidate must apply directly to the board of pharmacy to seek approval of any site and preceptor to be used. Any pharmacy that is submitted for approval as an intern training site for an out-of-state student or graduate shall meet the criteria outlined in (4)(B)1.-3.*

**(4) Requirements for an [Certified Intern] Advanced Practice Experience Training Pharmacy.**

*[(A) A pharmacy certified to provide intern training for the purpose of gaining practical experience as required by sections 338.020 and 338.030, RSMo shall be known as a Certified Intern Training Pharmacy.]*

*(B) An applicant to become a Certified Intern Training Pharmacy shall make application to the board and shall meet the following requirements:]*

**(A) Requirements for a licensed pharmacy to participate as a site for practical experience training that is approved by the board include the following:**

1. It must be a pharmacy with a clear record with respect to the observance of all federal, state and municipal laws and ordinance governing any phase of activity in which the pharmacy is engaged;

2. It must be a pharmacy operating under a pharmacy permit issued by the board and *[must have signified a willingness to*

*train interns] it must remain in good standing with the board; and*

*[3. It must maintain a satisfactory rating as per the Missouri Board of Pharmacy inspector's report;*

*4. It must reapply to be a Certified Intern Training Pharmacy at the end of each three (3)-year period; and]*

*[5.]3. All interns will be under the direct supervision of a [Missouri] licensed pharmacist in good standing [with the board].*

*[(C) Certification granted an intern training pharmacy may be withdrawn if, in the opinion of the board, the pharmacy, at any time, fails to comply with these requirements in all respects.]*

*[(D)](B) Institutional settings that are involved in training interns must maintain a pharmacy permit and comply with all other provisions of this rule. In addition, any inpatient areas of an institution used to train interns will be subject to regular inspection by the board. A school of pharmacy may petition the board for an exception to this requirement in order to allow the facility to be approved for providing advanced practice experience training.*

*(C) Accredited schools of pharmacy located within this state shall provide to the board, on an annual basis, a list of all preceptors and sites that are used in providing advanced practice experience through rotations toward the advanced practice experience requirement. The board shall approve any site for training interns that will be used within the college curriculum to fulfill the advanced practice experience requirements for licensure as a pharmacist. Any preceptors or sites that may be added by a school outside the annual approval process of the board must be approved by the board before the site can be used for practical experience purposes. In addition, the board shall approve the training standards, policies and procedures that are proposed by the schools of pharmacy in fulfilling the advanced practice experience requirements.*

*(D) Interns that have accumulated hours outside of the school of pharmacy program may submit those hours for credit up to one (1) year from the date that the requirements for advanced practice experience are in effect. All other requirements involving licensure, training and reporting to the board of pharmacy shall be adhered to before any credit of hours is provided.*

*AUTHORITY: sections 338.020, 338.035, 338.040, 338.070, 338.140 and 338.280, RSMo 2000 and 338.030, RSMo Supp. [2001] 2003. This version of rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or e-mail at [pharmacy@pr.mo.gov](mailto:pharmacy@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 220—State Board of Pharmacy  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 220-2.050 Public Complaint Handling and Disposition Procedure.** The board is proposing to amend sections (1), (4) and (5).

*PURPOSE: This rule amends the text of the rule to be consistent with the terminology used by the board.*

(1) The State Board of Pharmacy shall receive and process each complaint made against any *[licensed pharmacist or pharmacy possessing a valid permit,]* licensee or registrant or other person or entity, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 338, RSMo. Any member of the public, the profession or any federal, state or local official may make and file a complaint with the board. Complaints shall be received from sources outside Missouri and will be processed in the same manner as those originating within Missouri. No member of the State Board of Pharmacy shall file a complaint with this board while s/he holds that office, unless that member excuses him/herself from further board deliberations or activity concerning the matters alleged within that complaint. Any staff member or employee of the board may file a complaint pursuant to this rule in the same manner as any member of the public.

(4) Each complaint received under this rule shall be *[logged in a book maintained]* recorded by the board *[for that purpose].* Complaints shall be logged in consecutive order as received. The *[logbook]* record shall contain *[a record of]* each complainant's name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, *[including the name of any person injured or victimized by the alleged acts or practices; a notation whether the complaint resulted in its dismissal by the board or in formal charges being filed with the Administrative Hearing Commission;]* and the ultimate disposition of the complaint. This *[logbook]* record shall be a closed record of the board.

(5) *[Each complaint logged pursuant to this rule shall be acknowledged in writing. The acknowledgment shall state that the complaint is being investigated and shall be referred to the board or an appropriate board subcommittee for consideration following the investigation.]* The complainant *[subsequently]* shall be informed in writing as to whether the complaint has been dismissed by the board or is being referred to legal counsel for *[filing with the Administrative Hearing Commission or for other]* legal action. The complainant may be notified of the ultimate disposition of the complaint, excluding judicial appeals and may be provided with a copy of the decisions (if any) of the Administrative Hearing Commission and the board. The provisions of this section shall not apply to complaints filed by staff members or employees of the board, based upon information and belief, acting in reliance on third-party information received by the board.

*AUTHORITY: sections 338.140 and 338.280, RSMo 2000 and 620.010.15(6), RSMo Supp. [2001] 2003. Original rule filed Jan. 11, 1982, effective June 1, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625,*

*Jefferson City, MO 65102, via facsimile to (573) 526-3464 or e-mail at [pharmacy@pr.mo.gov](mailto:pharmacy@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 220—State Board of Pharmacy Chapter 5—Drug Distributor

#### PROPOSED AMENDMENT

**4 CSR 220-5.030 Definitions and Standards for Drug Wholesale and Pharmacy Distributors.** The board is proposing to amend section (3) and delete section (10).

*PURPOSE: This amendment establishes a requirement that licensed drug distributors and pharmacy distributors report to the board office the finding of counterfeit drugs within seven (7) days of gaining knowledge of the problem, prohibits issuance of drug distributor licenses in residences or residential areas or to a location that shares physical space with a business not licensed and regulated by the state of Missouri and deletes section (10) relating to brokers/agents.*

(3) Minimum standards of practice for drug distributors shall include the following:

(C) Appropriate housekeeping, sanitation, lighting, ventilation and humidity of all areas where drugs are stored must be maintained.

1. All aisles and walkways must be free and clear of debris, dirt or filth.

2. Dust shall be kept at low levels through adequate ventilation, cleaning procedures, or both.

3. All shelves and storage areas shall be kept free of debris, dirt, dust and filth.

4. Full cases of drug products shall be raised above floor level and placed on a pallet or similar device.

5. Upon receipt of legend drugs, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated prescription drugs or prescription drugs that are otherwise unfit for distribution. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

6. Each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

7. Drugs stored in a facility or being processed for distribution must be physically separated at all times from articles, supplies or other drugs that are outdated, distressed, misbranded or adulterated. An area separate from drug storage must be used to store quarantined, nonusable substances or accumulated waste/garbage. Any prescription drugs whose immediate or sealed outer or sealed secondary containers have been opened or used shall be identified as such and shall be quarantined and physically separated from other prescription drugs until they are either destroyed or returned to the supplier. If a drug is received or further distributed, either directly or through a secondary broker (paper) transaction, that is wholly or in part found to be counterfeit, a report which includes the name of the drug, quantity and lot number(s) must be forwarded to the Board of Pharmacy within seven (7) days of gaining knowledge of the transaction. Any recall of a product that is initiated by the Food and Drug Administration (FDA) or by a vendor licensed with the state of Missouri shall not be subject to the reporting requirement.

8. Flammable articles must be stored separately and away from drug products held for later wholesale distribution.

9. Drugs which may be held for later distribution that are labeled for veterinary use must be stored separately from those drugs that are to be distributed for human use.

10. Procedures must be in place to prevent, control and alleviate infestation by insects, rodents, birds or vermin of any kind.

11. Appropriate sewage disposal and a hot and cold water supply must be available.

12. The outside perimeter of the premises shall be well-lighted.

13. All facilities shall be equipped with an alarm system to detect entry after hours.

14. All facilities shall be equipped with a security system that will provide suitable protection against theft and diversion. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records;

(F) The labeling of drug products held for wholesale distribution must conform to requirements as set forth by the manufacturer, *[Food and Drug Administration (FDA)]* FDA, the USP and section 338.059.2, RSMo;

(M) Wholesale drug and pharmacy distributors shall establish, maintain and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory and distribution of prescription drugs, including policies and procedures for identifying, recording and reporting losses or thefts and for correcting all errors and inaccuracies in inventories. Drug distributors shall include in their written policies and procedures the following:

1. A procedure where the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement if the deviation is temporary and appropriate;

2. A procedure to be followed for handling recalls and withdrawals of prescription drugs. This procedure shall be adequate to deal with recalls and withdrawals due to any—

A. Action initiated at the request of the FDA or other federal, state, or local law enforcement or other government agency, including the Board of Pharmacy;

B. Voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

C. Action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design;

3. A procedure to ensure that drug distributors prepare for, protect against and handle any crisis that affects the security or operation of any facility in the event of strike, fire, flood or other natural disaster, or other situations of local, state or national emergency; and

4. A procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. This documentation shall be maintained for three (3) years after disposition of the outdated drugs; *[and]*

(N) Drug distributors will be responsible for security procedures for the delivery of drugs from the wholesale facility to the destination site of all drug shipments./.; and

(O) No drug distributor license shall be issued to any location, regardless of zoning, that is a residence, or is in a residential development or neighborhood, or to any location that shares an address and/or physical space with a business not licensed and regulated by the state of Missouri.

*[(10) Brokers, their agents and employees, who act only in the capacity of an agent who arranges or negotiates agreements or contracts for the transfer of drugs or drug related devices and do not take actual possession of the drugs or drug related devices are exempt from maintaining any equipment or physical location requirements involved in the actual storage and distribution of drugs. Brokers shall be responsible for all record keeping requirements as outlined in subsections (3)(I), (J), (K) and (L).]*

*AUTHORITY: sections 338.333, 338.343 and 338.350, RSMo 2000. Original rule filed Feb. 4, 1991, effective June 10, 1991. Amended: Filed Jan. 27, 1995, effective Sept. 30, 1995. Amended: Filed March 15, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2000, effective June 30, 2001. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or e-mail at [pharmacy@pr.mo.gov](mailto:pharmacy@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 240—Public Service Commission Chapter 29—Enhanced Record Exchange Rules

#### PROPOSED RULE

##### 4 CSR 240-29.010 The LEC-to-LEC Network

*PURPOSE: This rule describes the LEC-to-LEC network and adopts restrictions for use of that network.*

(1) The Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network is that part of the telecommunications network designed and used by telecommunications companies for the purposes of originating, terminating, and transiting local, intrastate/intraLATA, interstate/intraLATA, and wireless telecommunications services that originate via the use of feature group C protocol, as defined in 4 CSR 240-29.020(13) of this chapter. InterLATA wireline telecommunications traffic, and interstate/interMTA wireless traffic shall not be transmitted over the LEC-to-LEC network, but must originate and terminate telecommunications traffic with the use of an interexchange carrier point of presence, as defined in 4 CSR 240-29.020(31) of this chapter.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also*

be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.020 Definitions**

*PURPOSE:* This rule defines various terms that are used in this chapter.

(1) A 1,000-Number Block (NPA-NXX-X) is a range of one thousand (1,000) pooled telephone numbers within the NPA-NXX beginning with a station of n000, and ending with n999, where n is a digit from 0 through 9.

(2) Automatic Number Identification (ANI) means, for each call, delivery of the calling party's billing number sequentially from the originating carrier to each carrier that provides facilities to transit or terminate the call. ANI is used for billing purposes, and for delivery of the calling party's number to the called party.

(3) Aggregate traffic means telecommunications traffic that is not transiting traffic, but which is placed on the Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network by one carrier on behalf of another carrier.

(4) Carrier Identification Code (CIC) is a four (4)-digit number assigned to interexchange carriers in North America and used through equal access arrangements.

(5) A category 11-01-XX record is a mechanized individual call detail record developed in compliance with the Ordering and Billing Forum (OBF) exchange message interface (EMI) industry guidelines. The first two (2) digits in this record are "11." A Missouri-specific category 11-01-XX record is a mechanized individual call detail record for feature group C (FGC) traffic developed by the incumbent local exchange carriers in Missouri for intercompany settlements pursuant to the Missouri Public Service Commission (MoPSC) Report and Order in Case No. TO-99-254. This record contains data transferred from a 92-01-XX mechanized call detail record. The first two (2) digits in this record are "11." This type of call record is identical to a category 11-01-XX record except that it contains an originating operating company number (OCN) in positions 167 through 170 instead of a CIC in positions 46 through 49.

(6) A category 92-01-XX record is a mechanized individual call detail record that contains data from the standard EMI category 01-01-XX end user customer billing record for LEC-carried intraLATA traffic. The first two (2) digits in this record are "92."

(7) A category 92-99-XX record is a mechanized summary record which, when agreed upon by both parties, may be used for inter-

company settlements between local exchange carriers in lieu of a category 11-01-XX record. This record contains summaries of certain data contained in category 92-01-XX mechanized individual call detail records and contains information on the type and volume of traffic between the originating and terminating points. It also identifies the transiting parties on the call path between the originating and terminating points. The first two (2) digits in this record are "92."

(8) Compensable traffic is telecommunications traffic that is transit-ed or terminated over the LEC-to-LEC network, for which the transiting and/or terminating carrier is entitled to financial compensation.

(9) Exchange Message Interface System (EMI) is the industry standard for exchanging telecommunications message information for billable, nonbillable, sample settlement and study records. EMI documents are published by Alliance for Telecommunications Industry Solutions (ATIS).

(10) An end office is a building or space within a building that serves as an aggregation point for the provision of local exchange services and exchange access services. An end office may also serve as an aggregation point for placing traffic on the LEC-to-LEC network on behalf of other carriers.

(11) Feature Group A Protocol (FGA) is an interexchange switching arrangement available from the end offices of an incumbent local exchange carrier, which offers line-side connections that are accessible by dialing a seven (7)-digit local telephone number.

(12) Feature Group B Protocol (FGB) is an interexchange switching arrangement available from the end offices of an incumbent local exchange carrier, which offers trunk-side connections accessible by dialing seven (7) digits, the first three (3) of which are 9, 5 and 0.

(13) Feature Group C Protocol (FGC) is a local and interexchange switching arrangement offering trunk-side connections, which is used for local telecommunications traffic, intraLATA wireline telecommunications traffic, and intraMTA wireless communications traffic. FGC protocol does not utilize interexchange carrier point-of-presence trunking arrangements for call origination, call transiting, or call termination.

(14) Feature Group D Protocol (FGD) is an interexchange switching arrangement, available from incumbent local exchange carriers in an equal access environment, which offers trunk-side connections accessible in wireline telecommunications by dialing one plus (1+) the telephone number. FGD protocol utilizes interexchange carrier point-of-presence trunking arrangements for both call origination and call termination.

(15) Interexchange carrier (IXC) traffic is that traffic which traverses an interexchange carrier point of presence.

(16) In-band signaling means call setup signaling that is composed of tones that pass within the voice frequency band and that are carried along the same circuit as the talk path that is being established by the signals.

(17) Local Access and Transport Area (LATA) means that term as defined in section 386.020 (29), RSMo Supp. 2003. LATAs are contiguous geographic areas approved by the U.S. District Court for the District of Columbia in *United States v. Western Electric*, Civil Action No. 82-0192, which defines the permissible areas of operation for the Bell Operating Companies.

(A) IntraLATA telecommunications traffic is telecommunications traffic originating and terminating within the same LATA.

(B) InterLATA telecommunications traffic is telecommunications traffic originating and terminating in different LATA's.

(18) The Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network is a statewide telecommunications network comprised of transmission and switching capabilities of local exchange telecommunications carriers. The LEC-to-LEC network's geographic composition consists of the 520, 521, 522, and 524 LATA's. The LEC-to-LEC network is used to provide local, intrastate/intraLATA, interstate/intraLATA, and wireless telecommunications traffic that originates via the use of feature group C protocol.

(19) LEC-to-LEC traffic is that traffic occurring over the LEC-to-LEC network. LEC-to-LEC traffic does not traverse through an interexchange carrier's point of presence.

(20) The Local Exchange Routing Guide (LERG) is a Telcordia reference document used by telecommunications companies to identify NPA-NXX routing and homing information, as well as network element and equipment designations. The LERG reflects the current network configuration and scheduled network changes for all entities originating or terminating public switched telephone network calls within the North American numbering plan.

(21) Metropolitan Calling Area (MCA) traffic is telecommunications traffic that is originated, transited, and/or terminated pursuant to terms and conditions the Public Service Commission established in MoPSC Case Numbers TO-92-306 and TO-99-483.

(22) Meet Point Billing (MPB) is a billing arrangement used to bill the switched access customer when feature group B or D services are ordered and jointly provided by two (2) or more local exchange carriers, as described in the Multiple Exchange Carrier Access Billing (MECAB) industry document.

(23) MoPSC means the Missouri Public Service Commission.

(24) Major Trading Area (MTA) means that term as defined in 47 CFR section 24.202(a).

(A) IntraMTA telecommunications traffic is telecommunications traffic that originates and terminates within the same major trading area (MTA). For purposes of determining whether or not a wireless-originated telecommunication is intraMTA, the location of the initial cell site when a call begins shall be used as the determinant of the geographic location of the mobile caller.

(B) InterMTA telecommunications traffic is telecommunications traffic that originates in one MTA and terminates in a different MTA. For purposes of determining whether or not a wireless-originated telecommunication is interMTA, the location of the initial cell site when a call begins shall be used as the determinant of the geographic location of the mobile caller.

(25) Numbering plan area means a telephone area code.

(26) NPA-NXX means a group of ten thousand (10,000) telephone numbers within a numbering plan area where the second N represents a digit from 2 to 9 and X represents any digit from 0 to 9.

(27) Operating Company Number (OCN) is a four (4)-position alphanumeric field that identifies a local exchange carrier.

(28) Originating caller identification is the ten (10)-digit telephone number of the caller who originates the telecommunication that is placed on the LEC-to-LEC network. This feature is also known as caller ID (CID), calling number delivery (CND), calling party number (CPN), and automatic number identification (ANI).

(29) Originating carrier means the telecommunications company that is responsible for originating telecommunications traffic that travers-

es the LEC-to-LEC network. A telecommunications company whose retail telecommunications services are resold by another telecommunications company shall be considered the originating carrier with respect to such telecommunications for the purposes of this rule. A telecommunications company performing a transiting traffic function is not an originating carrier.

(30) Originating tandem carrier means a tandem switch provider who directly interconnects with an originating carrier or traffic aggregator when more than one (1) tandem switch is used for traffic that traverses the LEC-to-LEC network.

(31) Point of presence (POP) means the physical location within a LATA where an interexchange carrier processes long distance telephone calls to and from the public switched network. A POP is connected to the public switched network through the use of feature groups A, B, and D protocols. Equipment located in a POP does not use feature group C protocol.

(32) A reseller is a telecommunications company that resells the retail telecommunications service of another telecommunications company as described in section 386.020, RSMo Supp. 2003, and also includes those companies utilizing the network of another telecommunications company pursuant to section 251(c) 4 of Chapter 47 of the *United States Code*.

(33) Tandem switch means an intermediate telecommunications company switching center serving to connect central offices when direct interoffice trunks between those central offices are not available. Tandem switches connect trunks to trunks, but tandem switches do not connect directly to any customer telephone lines.

(34) Telecommunications company means, for the purposes of this chapter only, a telecommunications company that includes those companies included within the definition as set forth in section 386.020(51), RSMo Supp. 2003 and also includes companies providing radio communications services under license granted pursuant to the Federal Communications Commission's commercial mobile radio services (CMRS) rules and regulations.

(35) Telecommunications traffic means a quantity of attempted and completed telecommunications occurring over a telecommunications facility.

(36) Terminating carrier means any telecommunications company who provides call completion on the LEC-to-LEC network.

(37) Terminating tandem carrier means a tandem switch provider who directly interconnects with a terminating carrier when more than one (1) tandem switch is used for traffic traversing the LEC-to-LEC network.

(38) Traffic aggregator means a telecommunications company who, at an end-office location, places traffic on the LEC-to-LEC network on behalf of another telecommunications company. A traffic aggregation function differs from a transiting function, in that traffic aggregation occurs at an end office, whereas a transiting traffic function occurs at a tandem office.

(39) Transiting carrier means any telecommunications company that provides facilities on the LEC-to-LEC network over which a telecommunication is transmitted, when the telecommunication neither originates nor terminates on that telecommunications company's network.

(40) Transiting traffic means telecommunications traffic transmitted over the LEC-to-LEC network by a telecommunications company, which traffic neither originates nor terminates on that telecommunications company's network.

(41) Type I wireless interconnection is a type of interconnection between a wireless service provider switch and a local exchange carrier end office, in which the telephone number of the wireless customer resides within the local exchange carrier's switch as opposed to the wireless service provider's switch. Telephone numbers associated with type I wireless interconnection may be provided in blocks of ten thousand (10,000) (i.e., an entire NXX prefix) or may be less than a block of ten thousand (10,000), and may be provided in a shared arrangement with the wireline telephone numbers.

(42) Unbundled network elements (UNE) are physical and functional elements of an incumbent local exchange carrier's network infrastructure, which are made available to competitors on an unbundled basis. Such elements include but are not limited to local loops, switch ports, and dedicated and common transport facilities.

(43) An unbundled network element platform (UNE-P) is a specific set of UNEs (loop, switch port and transport) combined in order to make an end-to-end circuit.

(44) Wireline communications means all telecommunications traffic other than telecommunications traffic originated pursuant to authority granted by the U.S. Federal Communications Commission's commercial mobile radio services rules and regulations.

(45) A wireline carrier is any carrier providing wireline communications.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.030 General Provisions**

*PURPOSE: This rule describes, in general terms, the provisions of this chapter.*

(1) Telecommunications companies may originate, transit, and terminate telecommunications traffic utilizing the Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network only upon compliance with the rules set forth in this chapter. Any request for variance from the rules set forth in this chapter must be made to the Missouri Public Service Commission pursuant to 4 CSR 240-2.060(4).

(2) No originating wireless carrier shall place interstate interMTA traffic on the LEC-to-LEC network.

(3) No originating wireline carrier shall place interLATA traffic on the LEC-to-LEC network.

(4) No carrier shall terminate traffic on the LEC-to-LEC network, when such traffic was originated by or with the use of feature group A, B or D protocol trunking arrangements.

(5) No traffic aggregator shall place traffic on the LEC-to-LEC network, except as permitted in this chapter.

(6) Nothing in this chapter shall be construed to alter, or otherwise change, the record creation, record exchange, or billing processes currently in place for traffic carried by interexchange carriers using feature groups A, B, or D protocols.

(7) All carriers with existing interconnection agreements allowing for the exchange of traffic placed on the LEC-to-LEC network shall take appropriate action to ensure compliance with this chapter unless the commission has granted a variance from the requirements of this chapter.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

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**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.040 Identification of Originating Carrier for Traffic Transmitted over the LEC-to-LEC Network**

**PURPOSE:** *This rule establishes a proper means of identifying to transiting and terminating carriers all carriers who originate traffic that is transmitted over the LEC-to-LEC network.*

(1) All telecommunications companies that originate traffic that is transmitted over the Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network shall deliver originating caller identification with each call that is placed on the LEC-to-LEC network.

(2) All telecommunications carriers that transit LEC-to-LEC traffic for another carrier shall deliver originating caller identification to other transiting carriers and to terminating carriers.

(3) Nothing in this chapter shall be construed to alter, or otherwise change, the originating record creation, record exchange, and billing processes currently in place for telecommunications traffic transited by incumbent local exchange carriers on behalf of other incumbent local exchange carriers, except that such originating records created shall be category 11-01-XX records when requested by a terminating carrier.

(4) When transiting traffic for any carrier other than an incumbent local exchange carrier, originating tandem carriers shall, for each compensable call, create and make the following available upon request by a terminating carrier, at no charge to the terminating carrier:

(A) A category 11-01-XX record or, if no Carrier Identification Code is available, a Missouri-specific category 11-01-XX record.

(B) Nothing in (4)(A) above shall preclude two (2) carriers from mutually agreeing to exchange other types of billing records.

(C) A list of originating carriers connected to their tandem switch who originate traffic on the LEC-to-LEC network. The originating tandem carrier will ensure this list of originating carriers is readily accessible to any carrier involved in the completion of such calls. The originating tandem carrier will maintain the following information for carriers using its tandem switch to originate traffic on the LEC-to-LEC network: the name of the originating carrier plus the name, mailing address, telephone number and electronic address of an individual responsible for contacts regarding LEC-to-LEC network traffic billing and payment inquiries.

(5) All traffic aggregators shall deliver originating caller identification to the transiting and/or terminating carriers for each call that the traffic aggregator places on the LEC-to-LEC network. Traffic aggregators shall be required to create 11-01-XX records for all compensable telecommunications traffic placed on the LEC-to-LEC network on behalf of other carriers. Traffic aggregators shall also ensure that originating carrier information, as identified in subsection (4)(C), is maintained and provided in a timely manner to the originating tandem carrier and terminating carrier for any traffic placed on the LEC-to-LEC network by the traffic aggregator on behalf of another telecommunications company.

(6) The originating telephone number shall be the telephone number of the end user responsible for originating the telephone call. Under no circumstances in sections (1), (2), (3), (4) and (5) above shall any carrier substitute an originating telephone number other than the telephone number of the end user responsible for originating the telephone call.

**AUTHORITY:** sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.

**PUBLIC COST:** *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.050 Option to Establish Separate Trunk Groups for LEC-to-LEC Telecommunications Traffic**

**PURPOSE:** *This rule enables terminating carriers to establish trunking arrangements for LEC-to-LEC traffic separate and distinct from trunking arrangements used for IXC traffic.*

(1) At its discretion, a terminating carrier may elect to establish separate trunk groups for interexchange carrier (IXC) and Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) traffic. Terminating tandem carriers shall work cooperatively with, and abide by requests of, terminating carriers to establish separate trunking arrangements for IXC and LEC-to-LEC traffic occurring between a terminating tandem carrier and a terminating end office.

(2) A transiting carrier may opt to not install separate trunk groups to a requesting terminating carrier if the transiting carrier assumes financial responsibility for all compensable transiting traffic delivered to the terminating carrier.

(3) All terminating carriers electing to create category 11-01-XX records shall establish a trunk group for LEC-to-LEC traffic that is separate from trunk groups for IXC traffic. Such LEC-to-LEC trunk group shall be used to connect the end office to the tandem serving that end office.

(4) After a terminating carrier elects to establish separate trunk groups for IXC and LEC-to-LEC traffic, IXC traffic shall not be

placed on the LEC-to-LEC trunks between the terminating tandem carrier and terminating end office.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities two hundred fifty thousand one hundred ninety-one dollars (\$250,191) in the aggregate.*

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**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Missouri Department of Economic Development

Division: Missouri Public Service Commission

Chapter: Enhanced Record Exchange Rules

Type of Rulemaking: Proposed Rule Making

Rule Number and Name: 4 CSR 240-29.050 Option to Establish Separate Trunk Groups for LEC-to-LEC Telecommunications Traffic

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Class A Local Telephone Companies	\$250,191.00
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
	Class Interexchange Companies	\$0
	All entities	\$250,191.00

\* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers.

### III. WORKSHEET

1. The proposed rule applies to 4 Class A telephone companies. Those carriers are SBC, Sprint, CenturyTel, and Spectra. These companies were asked to identify any projected fiscal impact if the rule, as proposed, went into effect. Only SBC and Sprint responded with fiscal impacts. CenturyTel and Spectra did not respond with any fiscal impacts.
2. The fiscal impact for SBC is \$235,941. This fiscal impact is based on the installation of 43 new trunk groups at a cost of \$5,487 per trunk group ( $43 \times \$5,487 = \$235,941$ ).
3. The fiscal impact for Sprint is \$14,250. This fiscal impact is based on the installation of 15 new "T1" lines at a cost of \$950 per "T1" line ( $15 \times \$950 = \$14,250$ ).
4. Total cost to implement this rule is estimated at \$250,191 ( $\$14,250 + \$235,941 = \$250,191$ ).

### IV. ASSUMPTIONS

1. SBC claims the proposed rule will create a fiscal impact of \$444,450. This figure has been reduced to \$235,491 on the assumption that certain carriers will not request separate trunk groups.
2. SBC claims the proposed rule will require the company to install 81 new trunk groups. This number of trunk groups has been reduced to 43 trunk groups. The 43 new trunk groups are based on SBC's projected number of new trunk groups for incumbent local exchange carriers who are not transiting carriers. The 38 trunk groups not counted by the Staff are based on the assumption that the proposed rule will not create a reasonable expectation for SBC to install additional trunks to certain carriers. Specifically, additional trunk groups should not be needed for traffic transmitted from SBC to other carriers who are also transiting carriers (see Assumption No. 3). In addition, the rule does not create a new potential requirement for SBC to install new trunk groups involving wireless carriers or competitive local exchange carriers (see Assumption No. 4).
3. The projected fiscal impact assumes transiting carriers, specifically SBC, Spectra, Century Tel and Sprint, will not request other transiting carriers to install separate trunk groups. This assumption is based on indications in meetings and workshops that these carriers are currently satisfied with the current intercompany records process. Indeed, rule 29.040 (3) and (4) specifically exempts transiting carriers from changing current billing processes from calls among themselves (i.e., the former Primary Toll Carriers may continue the current Category 92 records process among themselves).
4. The projected fiscal impact assumes the rule will not create a new or additional fiscal impact on SBC to install new trunk groups involving wireless carriers or competitive local exchange carriers. Regardless of whether the rule gets approved, SBC's trunking arrangements with wireless and competitive local exchange carriers are made pursuant to interconnection

agreements, which are not expected to be affected by this proposed rule. In this respect, the proposed rule does not affect trunking arrangements between SBC and these types of carriers.

5. SBC's projected cost of \$5,487 per trunk group was applied to the projected number of trunk groups.

6. SBC's estimate to increase overall trunk group capacity an average of 20% was accepted, even though the total quantity of traffic remains unchanged under the proposed rule.

7. SBC's decision to use all new facilities to establish new trunk groups was accepted.

8. Sprint claims the proposed rule will create a fiscal impact of \$18,050. This figure has been reduced to \$14,250 on the assumption certain carriers will not request Sprint to install separate trunk groups (see Assumption Nos. 9 and 3).

9. Sprint projected the proposed rule would require Sprint to install 19 new "T1" lines. This number of "T1" lines was reduced to 15 on the basis that other transiting carriers would not elect to have Sprint install separate trunk groups (See Assumption No. 3). The 15 "T1" lines translates into 360 additional trunks based on one "T1" accommodating 24 circuits (15 "T1" lines X 24 = 360 trunks).

10. Sprint's formula for calculating costs based on "T1" costs, and not "trunk group" costs was accepted, and used in this analysis. Sprint's method of adding trunk groups by a minimum capacity of 24 trunks each (i.e., one "T1" line) was assumed, even though this method resulted in increased trunk utilization levels as high as 92% (Clearmont). Sprint's estimate to increase overall trunk group capacity an average of 33% was accepted, even though the total quantity of traffic remains unchanged under the proposed rule. Sprint's decision to maintain current trunking levels of 1,379 trunks on existing trunk groups, and not to downsize existing trunk groups, was accepted.

11. Sprint's estimated cost of \$950.00 per "T1" line was accepted for a total estimated cost of \$14,250.00 (15 X \$950 = \$14,250). The \$950.00 estimated cost is based on a \$200 non-recurring cost and a \$750.00 recurring cost.

12. Using Sprint supplied data, Staff calculated Sprint's original "per-trunk" cost estimate as \$39.58 ( $18,050/456 = \$39.58$ ). Because Sprint calculated costs on a "T1" line basis, Staff's adjustments had no impact on Sprint's original "per-trunk" cost estimate ( $14,250/360 = \$39.58$ ).

13. Using SBC supplied data, Staff calculated SBC's original "per-trunk" cost estimate as \$299.09 ( $444,450/1486 = \$299.09$ ). Because SBC calculated costs on a "per trunk group" basis, Staff's adjustments had the effect of lowering SBC's overall "per-trunk" cost estimate ( $\$235,491/1,008 = \$233.62$ ). Although SBC's per-trunk costs were lowered by Staff's adjustments, Staff continued to use SBC's original "per trunk-group" costing method.

14. It is assumed that all trunk groups will be provisioned the first year the rule becomes operational.

15. Estimates assume no sudden change in technology or federal regulations that would influence costs (none are expected), and no inflation factors are assumed.

**Title 4—DEPARTMENT OF ECONOMIC  
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**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.060 Special Privacy Provisions for End Users Who Block Their Originating Telephone Number**

*PURPOSE: This rule ensures end user privacy of blocked numbers, and to ensure that blocked numbers are available to terminating carriers for record creation purposes, without disclosure to the called party.*

(1) All originating carriers shall permit per-call blocking only in instances when the calling end user dials star 67 (\*67, or 1167 from a rotary dial telephone), prior to dialing the telephone number.

(2) All originating carriers shall permit per-line blocking only for authorized federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of each who have a need for such blocking. When receiving a request for per-line blocking, each telecommunications company shall determine whether the request has been made by an authorized law enforcement or domestic violence intervention agency. Only after verification that a per-line blocking request satisfies this rule requirement may a telecommunications company enable per-line blocking.

(3) In all instances of per-call and per-line caller ID blocking, all originating carriers, transiting carriers, and traffic aggregators shall transmit the caller ID to the terminating carrier by the use of facilities designed to ensure that caller ID is not disclosed to the called party.

(4) In all instances of per-call and per-line blocking, terminating carriers shall neither deliver nor disclose the calling party's caller ID to the called party, but shall use such information solely for determining the jurisdictional and billing nature of the traffic.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

*should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**Title 4—DEPARTMENT OF ECONOMIC  
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**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.070 Special Provisions for Wireless-Originated Traffic Transmitted over the LEC-to-LEC Network**

*PURPOSE: This rule establishes provisions for the use of the Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network by wireless carriers who elect to terminate traffic by the use of the LEC-to-LEC network.*

(1) The demarcation point for determining whether wireless-originated calls are intraMTA or interMTA shall be the location of the cellular site where the mobile call originates. It is acknowledged that technical limitations of wireless carriers' equipment may render the establishment of a demarcation point impossible for certain wireless-originated calls.

(2) Interstate, interMTA wireless-originated traffic shall be routed by wireless carriers to the facilities of an interexchange carrier.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

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**Chapter 29—Enhanced Record Exchange Rules**

## **PROPOSED RULE**

### **4 CSR 240-29.080 Use of Terminating Record Creation for LEC-to-LEC Telecommunications Traffic**

*PURPOSE: This rule establishes a system of terminating record creation between carriers for Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) traffic.*

(1) Terminating carriers may utilize information received from originating and/or transiting carriers to prepare category 11-01-XX records to generate accurate billing invoices for submission to originating carriers. All such billing invoices submitted by terminating carriers shall be generated and based upon category 11-01-XX records and such records shall be made available to the originating carrier upon request at no charge. Originating carriers are required to compensate terminating carriers on the basis of such accurate invoices.

(2) A terminating carrier may identify the originating carrier that it bills based on the originating operating company number (OCN) associated with the originating caller identification number. Certain type I wireless interconnections may utilize blocks of fewer than one thousand (1,000) numbers; in such instances, wireless-originated calls may be attributed to wireline carriers. In the event that the terminating carrier, using the OCN identified in the local exchange routing guide, erroneously bills a carrier other than the originating carrier, then the carrier whose OCN was identified shall notify the terminating carrier, and the parties shall work jointly to identify the originating carrier.

(3) Nothing in section (1) above shall preclude two (2) carriers from mutually agreeing to exchange other types of billing records.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 240—Public Service Commission**

#### **Chapter 29—Enhanced Record Exchange Rules**

## **PROPOSED RULE**

### **4 CSR 240-29.090 Time Frame for the Exchange of Records, Invoices, and Payments for LEC-to-LEC Network Traffic**

*PURPOSE: This rule establishes minimum standards for submission of billing records, invoices, and payments between carriers who originate, transit, and/or terminate LEC-to-LEC traffic.*

(1) All telecommunications companies responsible for creating and/or submitting Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network billing records shall submit such records in a timely manner on or about the same day each month. This requirement shall not preclude companies from mutually establishing individual record creation cycles for individual originating carriers.

(2) Upon receiving a correct invoice requesting payment for terminating traffic placed on the LEC-to-LEC network, the originating carrier shall submit payment within thirty (30) days to the telecommunications company that submitted the invoice.

(3) All telecommunications companies subject to this chapter shall retain call detail records in a retrievable electronic format for not less than twelve (12) months following call completion. In the event any calls become the subject of an objection to payment invoice, or an audit, such records shall be retained for at least ninety (90) days after completion thereof.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will cost private entities nineteen thousand two hundred dollars (\$19,200) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**FISCAL NOTE**  
**PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Missouri Department of Economic Development

Division: Missouri Public Service Commission

Chapter: Enhanced Record Exchange Rules

Type of Rulemaking: Proposed Rule Making

Rule Number and Name: 4 CSR 240-29.090 Time Frame for the Exchange of Records, Invoices, and Payments for LEC-to-LEC Network Traffic.

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Class A Local Telephone Companies	\$19,200
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
	Class Interexchange Companies	\$0
	All entities	\$0

\* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers.

### **III. WORKSHEET**

1. SBC projects a cost of \$19,200 to implement this rule. No other carrier reported a fiscal impact.

### **IV. ASSUMPTIONS**

1. SBC projects an estimate of \$18,200 for programming requirements and \$1,000 for increased storage capacity to meet this requirement.

**Title 4—DEPARTMENT OF ECONOMIC  
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**PROPOSED RULE**

**4 CSR 240-29.100 Objections to Payment Invoices**

*PURPOSE: This rule establishes a procedure for objecting to payment of invoices received for terminating LEC-to-LEC network telecommunications traffic.*

(1) Objections to invoices received for terminating Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) traffic shall be made in writing or e-mail to the terminating carrier. Questions pertaining to such invoices may be submitted by telephone.

(2) All objections under this rule shall be promptly investigated by the terminating carrier responsible for sending payment invoices. The results of all such investigations shall be reported back to the objecting party in writing or by e-mail no later than thirty (30) days after receipt of the objection. A written or e-mail correspondence showing a summary or results of all such investigations must be provided by the terminating company to the manager of telecommunications, Missouri Public Service Commission.

(3) In the event any terminating local exchange carrier in any billing period or periods receives billing records for compensable traffic that are less than the total terminating compensable traffic received and recorded by the terminating local exchange carrier for that period or periods ("unidentified traffic"), the terminating local exchange carrier may render a written or e-mail objection to the receipt of the unidentified traffic to the terminating tandem carrier across whose facilities the terminating local exchange carrier believes such unidentified traffic was transited. Such objection need not be in the form of an invoice. Within twenty (20) days after receipt of such objection, the terminating tandem carrier shall in turn notify all carriers it believes may have placed or transited the unidentified traffic on the LEC-to-LEC network. Objections and notifications informing carriers of unidentified terminating traffic shall be promptly investigated by all carriers that receive them. The objecting carrier, tandem carriers, and originating carriers shall work cooperatively and in good faith and shall provide complete and accurate billing records to the objecting terminating local exchange carrier. The terminating local exchange carrier shall make available the automatic number identification (ANI) and such other information relating to such unidentified traffic as is in its possession. All carriers shall make full disclosure of their positions, and evidence in support thereof, to all other carriers participating in the investigation, and to the manager of telecommunications, Missouri Public Service Commission, and shall make duplicates of such evidence and information available to all participants. Within sixty (60) days after the objection is made, the results of such investigation shall be reported back to all carriers concerned, and written or e-mail correspondence showing a summary of results of the investigations shall be provided by all involved carriers to the manager of telecommunications, Missouri Public Service Commission. In the event the carriers cannot agree on a common report, each carrier may submit its own report.

(4) In the event any objection to invoice, or any objection to the receipt of unidentified traffic, remains unresolved or uncompensated for more than thirty (30) days following provision of investigation reports to the manager of telecommunications, Missouri Public Service Commission, the carrier rendering the invoice, or the carrier objecting to the receipt of unidentified traffic, may initiate the following intercarrier compensation complaint process applicable to traffic placed on the LEC-to-LEC network:

(A) After having complied with sections (3) and (4) above, the objecting carrier may file a formal complaint in accordance with 4 CSR 240-2.070. Said complaint may name as respondents any or all carriers participating in the investigation process, and any carriers notified of the investigation process but not participating in it. Tandem carriers named as parties in such complaint shall have thirty (30) days from being served to identify and name as additional parties respondent any other carriers that may have originated or transited such unidentified traffic. Such carriers shall be served with the complaint and pleading naming them as additional parties in the same manner as is described in 4 CSR 240-2.070(7), and shall answer within thirty (30) days of the date of notice as provided therein.

(B) Within thirty (30) days after all answers are filed, or within thirty (30) days of the last date for timely answer, the commission will set the matter for evidentiary hearing without the need for pre-filed testimony.

(C) Within twenty (20) days after the conclusion of said hearing the regulatory law judge assigned shall file a recommended decision to the commission, and serve copies thereof on each party. Said recommended decision shall address and resolve objections to invoices, and shall address and resolve objections to the receipt of unidentified traffic, and may find originating carriers or originating tandem carriers liable to the terminating LEC for unidentified traffic.

(D) Each party shall have twenty (20) days from the filing of the recommended decision in which to file a response to the recommended decision. In the event no party responds, the recommended decision shall be the decision of the commission. In the event any party does respond, the commission shall thereafter consider the recommended decision and the responses thereto, and enter its decision within thirty (30) days of the filing of responses to the recommended decision.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**Title 4—DEPARTMENT OF ECONOMIC  
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**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.110 Duty to File Tariffs for Compensable Telecommunications Traffic in the Absence of Commission-Approved Interconnection Agreements**

*PURPOSE:* This rule establishes a uniform system of charges for telecommunications traffic terminating over the LEC-to-LEC network, when such traffic is not covered by a commission-approved interconnection agreement.

(1) In the absence of a commission-approved interconnection agreement, all local exchange carriers seeking compensation for terminating traffic that traverses the Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) network shall file tariffs establishing the rates, terms, and conditions for all compensable terminating traffic, including intraMTA telecommunications traffic. Upon the effective date of this rule, local exchange carriers who are terminating traffic that traverses the LEC-to-LEC network and who seek compensation for such traffic, shall have ninety (90) days to submit such tariffs to the commission for approval, unless such tariffs are currently pending, or have been previously approved.

(2) All invoices for termination of telecommunications traffic placed on the LEC-to-LEC network shall be prepared pursuant to the terms of the terminating carrier's commission-approved tariff or applicable interconnection agreement.

*AUTHORITY:* sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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**Division 240—Public Service Commission**  
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**PROPOSED RULE**

**4 CSR 240-29.120 Blocking Traffic of Originating Carriers and/or Traffic Aggregators by Transiting Carriers**

*PURPOSE:* This rule establishes parameters and procedures enabling transiting carriers to block traffic of originating carriers and/or traffic aggregators who fail to comply with rules pertaining to LEC-to-LEC traffic.

(1) In all instances of traffic blocking, originating carriers and traffic aggregators may utilize alternative methods of delivering the blocked traffic to terminating carriers. Such methods may include interconnection agreement negotiations for transiting traffic, direct interconnection with terminating carriers, or contracting with interexchange carriers for traffic delivery.

(2) A transiting carrier may block any or all Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) traffic it receives from an originating carrier and/or traffic aggregator who fails to fully compensate the transiting carrier or who fails to deliver originating caller identification to the transiting carrier. Additionally, the transiting carrier may block any or all additional LEC-to-LEC traffic it receives from an originating carrier and/or traffic aggregator who fails to compensate the transiting carrier for the costs associated with establishing blocking arrangements made pursuant to this rule, whether or not such blocking actually occurred.

(3) The transiting carrier shall provide all affected carriers, including, but not limited to, the originating carrier and/or traffic aggregator, and the manager of the telecommunications department of the Missouri Public Service Commission (MoPSC), written notice by certified mail at least thirty (30) days prior to implementing blocking. Such notification shall clearly indicate the reason(s) for certain traffic to be blocked, the date the traffic block will begin, an explanation of what action the originating carrier and/or traffic aggregator should take to prevent any traffic from being blocked, when this corrective action must be completed, and the person to contact to obtain further information. Such notice shall also clearly indicate that the blocking will be done pursuant to rules of the MoPSC. The originating carrier and/or traffic aggregator shall compensate the transiting carrier for any blocking preparation and/or implementation work performed to implement blocking, even if blocking is ultimately not implemented. Such blocks will not be instituted on weekends or holidays, or on a day immediately preceding a weekend or holiday.

(4) Upon receipt of notice that its traffic is subject to blocking, a wireline carrier shall determine whether to use alternate means of delivering the traffic that is subject to blocking. If the wireline carrier elects not to use an alternate means of delivering the traffic, the wireline carrier shall, within fifteen (15) days after receipt of notice, notify all potentially affected end users in writing that calls to affected NPA-NXXs may be blocked. A copy of such written notification shall be provided to the manager of the telecommunications department of the MoPSC. In lieu of such customer notification, the originating carrier and/or traffic aggregator may proceed according to sections (5) and (6) following.

(5) If an originating carrier and/or traffic aggregator disputes a proposal where some or all of its LEC-to-LEC traffic would be blocked by a transiting carrier, the originating carrier and/or traffic aggregator should immediately seek formal action by the commission through the filing of a formal complaint. Such a complaint shall provide all relevant evidence refuting any stated reasons for blocking such traffic. Such complaint shall include a request for expedited resolution.

(6) If an originating carrier and/or traffic aggregator files a formal complaint, the transiting carrier will cease blocking, pending the commission's decision. In all instances of blocking by a transiting carrier, the costs associated with blocking shall be borne by the originating carrier and/or traffic aggregator.

(7) It is recognized that, at the time of call placement, transiting carriers cannot distinguish unbundled network element platform (UNE-P) traffic from the traffic of the incumbent whose facilities are being utilized by the UNE-P provider. Transiting carriers who desire to block UNE-P traffic shall file a formal complaint with the commission seeking such blockage. All such formal complaints shall name the relevant UNE-P provider as well as the incumbent carrier whose facilities are being used to provide UNE-P service. All such formal complaints shall be filed pursuant to the commission's procedures for filing formal complaints, and shall set forth complete details including, but not limited to, any violation of commission rules or Missouri statutes alleged to have occurred. Such formal complaint shall also state what action and relief the complainant seeks from the commission. Such requested relief may include complete blockage of the UNE-P provider's service by the incumbent local exchange carrier whose facilities are being used. All such formal complaints shall request expedited consideration.

*AUTHORITY:* sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

*PURPOSE:* This rule establishes parameters and procedures for terminating carriers to request that originating tandem carriers block traffic of originating carriers and/or traffic aggregators who fail to comply with rules pertaining to traffic traversing the LEC-to-LEC network.

(1) In all instances of traffic blocking, originating carriers and traffic aggregators may utilize alternative methods of delivering the blocked traffic to terminating carriers. Such methods may include interconnection agreement negotiations with terminating carriers for transiting traffic, direct interconnection with terminating carriers, or contracting with interexchange carriers for traffic delivery.

(2) A terminating carrier may request the originating tandem carrier to block, and upon such request the originating tandem carrier shall block, the originating carrier's Local Exchange Carrier-to-Local Exchange (LEC-to-LEC) traffic, if the originating carrier has failed to fully compensate the terminating carrier for terminating compensable traffic, or if the originating carrier has failed to deliver originating caller identification to the transiting and/or terminating carriers.

(3) If the traffic aggregator has failed to deliver originating caller identification to the transiting and/or terminating carrier, a terminating carrier may request the originating tandem carrier to block, and upon request the originating tandem carrier shall block, the traffic aggregator's LEC-to-LEC traffic.

(4) The terminating carrier shall provide all affected carriers, including but not limited to, the originating carrier and/or traffic aggregator, the transiting carrier, and the manager of the telecommunications department of the commission, written notice by certified mail at least thirty (30) days prior to the date the terminating carrier requests blocking to occur. Such notification shall clearly indicate the reason(s) for certain traffic to be blocked, the date the traffic is requested to be blocked, an explanation of what action the originating carrier and/or traffic aggregator should take to prevent any traffic from being blocked, when this corrective action must be completed, and the person to contact to obtain further information. Such notice shall also clearly indicate that the blocking will be done pursuant to rules of the Missouri Public Service Commission (MoPSC). The terminating carrier shall compensate the originating tandem carrier for any blocking preparation and/or implementation work performed to implement blocking, even if blocking is ultimately not implemented.

(5) Following notification pursuant to section (4) above, and upon written request by a terminating carrier, the originating tandem carrier will be required to block LEC-to-LEC traffic of an originating carrier and/or traffic aggregator to the terminating carrier. Such requests shall be based on the terminating carrier's representation that the originating carrier and/or traffic aggregator has failed to fully compensate the terminating carrier for terminating compensable traffic, or that the originating carrier and/or traffic aggregator has failed to deliver originating caller identification to the transiting and/or terminating carriers. The originating tandem carrier shall not be liable for any blocking work performed at the request of the terminating carrier.

(6) If the terminating carrier requests the originating tandem carrier to block LEC-to-LEC traffic of an originating carrier and/or traffic aggregator, the date and time whereby traffic will be blocked shall be mutually agreed upon by the terminating carrier and the originating tandem carrier. Such blocks will not be initiated on weekends or holidays, or on a day immediately preceding a weekend or holiday. Unless otherwise agreed to by both the terminating carrier and originating tandem carrier, the originating tandem carrier shall implement the block within forty-five (45) days after receipt of the request to block.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 240—Public Service Commission

#### Chapter 29—Enhanced Record Exchange Rules

##### PROPOSED RULE

###### 4 CSR 240-29.130 Requests of Terminating Carriers for Originating Tandem Carriers to Block Traffic of Originating Carriers and/or Traffic Aggregators

(7) In supplement or as an alternative to blocking, a terminating carrier may require the originating carrier, as a condition of continued service, to place into escrow sufficient monies to recover any disputed or unpaid amounts.

(8) Upon receipt of notice that its traffic is subject to blocking, wireline carriers shall determine whether to use alternate means of delivering the traffic that is subject to blocking. If the wireline carrier elects not to use alternate means of delivering the traffic, the wireline carrier shall, within fifteen (15) days after receipt of notice, notify its potentially affected end users in writing that calls to affected NPA-NXXs may be subject to blocking. A copy of such written notification shall be provided to the manager of the telecommunications department of the MoPSC. In lieu of such customer notification, the originating carrier and/or traffic aggregator may proceed according to sections (9) and (10) following.

(9) If an originating carrier and/or traffic aggregator wishes to dispute a proposal whereby some or all of its LEC-to-LEC traffic would be blocked by an originating tandem carrier or where the terminating carrier has required that disputed or unpaid amounts be placed into escrow, the originating carrier and/or traffic aggregator should immediately seek action by the commission through the filing of a formal complaint. Such a complaint shall provide all relevant evidence refuting any stated reasons for blocking such traffic or placing disputed charges into escrow. Such complaint shall include a request for expedited resolution.

(10) If an originating carrier and/or traffic aggregator file(s) a formal complaint, the terminating carrier and originating tandem carrier shall cease blocking preparations, pending the commission's decision. In all instances of blocking requests by a terminating carrier, the costs associated with blocking shall be borne by the terminating carrier, even if blocking is ultimately not implemented. The obligation to establish an escrow account will also cease, pending further direction from the commission.

(11) Nothing in sections (1) through (10) above shall require transiting carriers to block unbundled network element platform (UNE-P) traffic. It is recognized that, at the time of call placement, transiting carriers cannot distinguish UNE-P traffic from the traffic of the incumbent whose facilities are being utilized by the UNE-P provider. Terminating carriers who desire transiting carriers to block UNE-P traffic shall file a formal complaint with the commission seeking such blockage. All such formal complaints shall name the relevant UNE-P provider, the transiting carrier(s) involved, and the incumbent carrier whose facilities are being used to provide UNE-P service. All such formal complaints shall be filed pursuant to the commission's procedures for filing formal complaints, and shall set forth complete details including, but not limited to, any violation of commission rules or Missouri statutes alleged to have occurred. Such formal complaint shall also state what action and relief the complainant seeks from the commission. Such requested relief may include complete blockage of the UNE-P provider's service by the incumbent local exchange carrier whose facilities are being used. All such formal complaints shall request expedited consideration.

**AUTHORITY:** sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.

**PUBLIC COST:** This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition

to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.140 Blocking Traffic of Transiting Carriers by Terminating Carriers**

**PURPOSE:** This rule establishes parameters and procedures for blocking traffic by terminating carriers if transiting carriers fail to comply with rules pertaining to traffic traversing the LEC-to-LEC network.

(1) In all instances of traffic blocking, transiting carriers may utilize alternative methods of delivering the blocked traffic to terminating carriers. Such methods may include interconnection agreement negotiations for transiting traffic, direct interconnection by originating carriers and/or traffic aggregators with terminating carriers, or contracting with interexchange carriers for traffic delivery.

(2) Pursuant to section (3) below, the terminating carrier may block Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) traffic from a transiting carrier if the transiting carrier has failed to comply with rules pertaining to traffic traversing the LEC-to-LEC network including, but not limited to, ensuring that originating caller identification is being delivered to the terminating carrier.

(3) If the terminating carrier is unable to agree with the transiting carrier on blocking or other resolution of the issue, the terminating carrier will formally notify, via certified mail, the transiting carrier and the manager of the telecommunications department of the commission of the terminating carrier's intent to block traffic delivered by the transiting carrier. Such notice shall clearly indicate that the blocking will be done pursuant to the rules of the Missouri Public Service Commission and shall clearly indicate the reason(s) for certain traffic to be blocked, the date the traffic block will begin, an explanation of what action the transiting carrier should take to prevent any traffic from being blocked, when this corrective action must be completed, and the person to contact to obtain further information. Such blocks shall not be instituted on weekends or holidays, or on a day immediately preceding a weekend or holiday. Such blocks will not be implemented before forty-five (45) days after receipt of written notice.

(4) Upon receipt of notice that its transiting traffic is subject to blocking by terminating carriers, transiting carriers shall notify all telecommunications companies for whom the transiting carrier is contractually obligated to transit traffic. Such notices shall include, but shall not be limited to, resellers of local exchange service and providers of unbundled network element platform (UNE-P) services. Such notices shall also include, but shall not be limited to, all originating carriers, traffic aggregators, and other transiting carriers with whom the transiting carrier has established direct interconnection of facilities. Such notices shall be sent via certified mail within seven (7) days from the receipt of notice from the terminating carrier.

(5) Upon receipt of notice that its traffic is subject to blocking, wireline carriers shall determine whether to use alternative means of delivering the traffic that is subject to blocking. If the wireline carrier elects not to use an alternate means of delivering the traffic, the wireline carrier shall, within fifteen (15) days, notify all potentially affected end users in writing that calls to affected NPA-NXXs may be blocked. A copy of such written notification shall be provided to the manager of the telecommunications department of the Missouri Public Service Commission (MoPSC). In lieu of such customer notification, the originating carrier and/or traffic aggregator may proceed according to sections (6) and (7) following.

(6) If a transiting carrier wishes to dispute a proposal whereby some or all of its LEC-to-LEC traffic would be blocked by a terminating carrier, the transiting carrier should immediately seek action by the commission through the filing of a formal complaint. Such a complaint shall provide all relevant evidence refuting any reasons for blocking such traffic. Such complaint shall include a request for expedited resolution.

(7) If the transiting carrier files a formal complaint, the terminating carrier will cease blocking, pending the commission's decision. In all instances of blocking by a terminating carrier, the costs associated with blocking shall be borne by the terminating carrier, even if blocking is ultimately not implemented.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers:

*Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.150 Confidentiality**

*PURPOSE: This rule ensures the confidentiality of customer proprietary network information.*

(1) Any information that would constitute either recorded usage data or customer proprietary network information (CPNI) of a telecommunications company's customers pursuant to the Telecommunications Act and the rules and regulations of the Federal Communications Commission (FCC) is deemed to be "confidential information." For purposes of this rule, the "recipient" is the party that directly or indirectly receives confidential information, and the "discloser" is the party that creates and/or passes confidential information to another party.

(2) The recipient must:

(A) Use confidential information only for intercompany billing purposes;

(B) Hold confidential information in confidence and disclose it to no one other than its employees having a need to know for intercompany billing purposes;

(C) Safeguard confidential information from unauthorized use or disclosure using at least the same degree of care with which the recipient safeguards its own confidential information; and

(D) Obtain the written consent of the discloser before disclosing any confidential information to a third party.

(3) The recipient may make copies of confidential information only as reasonably necessary to perform its obligations under this rule. All such copies will be subject to the same restrictions and protections as the original and will bear the same copyright and proprietary rights notices as are contained in the original.

*AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or

testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 29—Enhanced Record Exchange Rules**

**PROPOSED RULE**

**4 CSR 240-29.160 Audit Provisions**

*PURPOSE:* This rule establishes parameters and procedures for the audit of certain intercompany billing records.

(1) A telecommunications company who receives records from another telecommunications company for billing may perform a comprehensive review of the record process utilized for providing billing records that are issued for payment of compensable traffic.

(2) The telecommunications company requesting the audit shall have the right, through its authorized representatives, to perform an audit, during normal business hours, of the records and processes which contain information and standards provided in this chapter. Within thirty (30) days from a request, the telecommunications companies involved in the audit shall agree upon the scope of the audit, the documents and processes to be reviewed, and the time, place and manner in which the audit will be performed. The telecommunications company being audited shall provide audit support, including reasonable access to and use of facilities (e.g., conference rooms, telephones, copying machines). If the parties to the audit cannot agree upon any aspect of the audit, such dispute shall be referred to the commission for resolution.

(3) Each telecommunications carrier shall bear its own costs in connection with the conduct of the audit.

(4) Adjustments, credits or payments shall be made, and any correcting action shall commence, within thirty (30) days from the requesting telecommunications company's receipt of the final audit report to compensate for any errors or omissions that are disclosed by such an audit, and are agreed to by the telecommunications companies.

*AUTHORITY:* sections 386.040 and 386.250, RSMo 2000. Original rule filed Nov. 30, 2004.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also

be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for February 9, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.025 Bingo Promotions.** The commission is amending sections (1) and (2).

*PURPOSE:* This rule is being amended to correct verbiage.

(1) Bingo promotions are defined as free drawings, free merchandise, or any type of free games (other than free pull-tabs, free bingo paper, birthday packs, free daubers, or other free bingo paraphernalia) offered in conjunction with a bingo event in which *[a]* cash, merchandise, or other item of value is awarded.

(2) Bingo promotions are not an authorized cost of conducting a bingo game under section 313.040, RSMo. Any bingo promotion a licensee may *[choose]* choose to conduct in conjunction with a licensed bingo event shall be entirely funded from non-bingo funds or donations.

*AUTHORITY:* section 313.065, RSMo 2000. Original rule filed March 1, 2002, effective Sept. 30, 2002. Amended: Filed Dec. 1, 2004.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.030 Special Bingo Game.** The commission is amending section (1).

*PURPOSE: This rule is being amended to clarify the definition of a special bingo game.*

(1) A special bingo game is a game **designated as a special bingo game by a licensee** and played on a card(s) issued to a player upon payment of a charge of fifty cents (50¢) or less per card, as *[specified in]* required by section 313.040, RSMo. *[A special game is usually preannounced and normally affords a greater prize to the winner(s).]*

*AUTHORITY: section 313.065, RSMo [Supp. 1993] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED RULE**

**11 CSR 45-30.035 Bingo Card**

*PURPOSE: This rule provides a definition of bingo card and its lawful use.*

(1) A bingo card is an individual game face marked off into twenty-five (25) squares arranged on five (5) horizontal rows of five (5) squares each with each square being designated by a number, letter, or a combination of numbers and letters, except that the center square on the card shall be designated with the word “free.”

(2) No two (2) bingo cards shall be identical, however, one (1) or more bingo cards may be contained on a bingo sheet.

(3) The price for a single bingo card may not exceed one dollar (\$1).

(4) The price for a single special game bingo card may not exceed fifty cents (50¢).

(5) The use of any bingo card for any purpose that is not defined within Chapter 313, RSMo, is prohibited.

*AUTHORITY: section 313.065, RSMo 2000. Original rule filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Dr., Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rule, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Dr., Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.040 Occasion.** The commission is amending section (1).

*PURPOSE: The rule is being amended to clarify that a licensee cannot hold a regular bingo license and a special bingo license during the same calendar day.*

(1) An occasion is a single *[session(s)] bingo session* within the same calendar day during which the total consists of no more than sixty-two (62) bingo games. *[If the same] A licensee [possesses both a regular and special bingo license no more than sixty-two (62) games in the aggregate may be played in any calendar day.]* may not conduct a bingo session under a special bingo license on the same calendar day the licensee conducts a bingo session under its regular bingo license.

*AUTHORITY: section 313.065, RSMo [Supp. 1993] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED RESCISSION**

**11 CSR 45-30.050 Gross Receipts.** This rule set forth the definition of gross receipts for a bingo occasion.

**PURPOSE:** *This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.205.*

**AUTHORITY:** section 313.065, RSMo Supp. 1996. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed July 3, 1995, effective Jan. 30, 1996. Emergency amendment filed Aug. 5, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed Aug. 5, 1996, effective March 30, 1997. Rescinded: Filed: Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.060 Operator(s).** The commission is amending section (1).

**PURPOSE:** *This proposed amendment will require each organization to designate a bingo chairperson for the overall supervision of bingo.*

(1) Each application or renewal application shall designate *[an officer or duly appointed representative]* a bingo chairperson who shall be *[generally]* responsible for the overall supervision, management, and conduct of the bingo activities. The *[person]* bingo chairperson shall maintain, or be responsible for maintaining, all records necessary to accurately reflect the bingo operations and shall timely file all required reports. The commission shall be *[promptly]* notified within one (1) calendar day of any change of the *[officer or duly appointed representative]* bingo chairperson.

**AUTHORITY:** section 313.065, RSMo *[Supp. 1993]* 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.

29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.070 Regular Bingo License.** The commission is amending section (1).

**PURPOSE:** *This rule is being amended to clarify that a licensee cannot hold a regular bingo license and a special bingo license on the same calendar day.*

(1) A regular bingo license is a license issued to a qualified organization to conduct only the game of bingo as defined in section 313.005, RSMo. The number of bingo occasions conducted by a licensee is limited to one (1) day per week. The holder of a regular bingo license may *[also be the holder of a special]* not conduct a bingo session under a special bingo license during the same calendar day that it conducts a bingo session under its regular bingo license. A veterans' organization may be exempt from the limitation of one (1) day per week for play at a veterans' hospital as provided in section 313.060, RSMo.

**AUTHORITY:** section 313.065, RSMo *[Supp. 1993]* 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this

proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED RULE**

**11 CSR 45-30.135 Bingo Workers**

**PURPOSE:** *This rule provides a definition of “bingo worker.”*

(1) A bingo worker is any person participating in the operation of the game of bingo. This includes the bingo chairperson or member in charge, callers and any person that helps to verify or pay bingo winners. It includes any person that sells bingo paper or pull-tabs, as well as any person involved in player contact or running of the actual games, including those who help prepare paper, count winning pull-tabs, or otherwise handle the bingo supplies or receipts.

**AUTHORITY:** *section 313.065, RSMo 2000. Original rule filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Dr., Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rule, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Dr., Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.140 Worker—Player.** The commission is amending section (1).

**PURPOSE:** *This rule is being amended to set forth additional guidelines regarding a worker and sweepstakes and raffles conducted pursuant to Article III, Section 39(f) of the Missouri Constitution.*

(1) Any eligible person may participate in the conduct, management or operation of bingo *[and play bingo during the same occasion]* but may not *[be both a player and a worker during the same game. Workers must pay to participate in the playing of a bingo game in the same manner and at the same cost as any other player.]* also participate in the conduct, management or operation of a lawful raffle or sweepstakes authorized

under Article III, Section 39(f) of the Missouri Constitution conducted during the same occasion.

**AUTHORITY:** *section 313.065, RSMo [Supp. 1993] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.155 Bingo Equipment Defined.** The commission is amending subsection (1)(B) and adding section (2).

**PURPOSE:** *This proposed amendment clarifies the definition of bingo equipment and incorporates the definition of equipment presently contained in 11 CSR 45-30.160.*

(1) In addition to the items listed in section 313.005(3), RSMo the following items are considered paraphernalia used in the conduct of a bingo or pull-tab game or event:

(B) *[Pull tabs]* **Pull-tabs** and pull-tab dispensers.

(2) Equipment used in the conduct of bingo must be maintained in good and proper working condition. Equipment shall be operated in a manner so that each player is given an equal opportunity of winning. The object or balls to be drawn must be essentially the same as to size, shape, weight, and balance so that they are equally agitated and circulated within the receptacle and have an equal probability of being dispensed, selected, or drawn. The bingo cards used for play in regular or special games must be readily identifiable as to type.

**AUTHORITY:** *section 313.065, RSMo [Supp. 1997] 2000. Original rule filed Nov. 10, 1998, effective June 30, 1999. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED RESCISSON**

**11 CSR 45-30.160 Equipment.** This rule set forth the requirements for maintaining and operating bingo equipment for the proper conduct of the game.

**PURPOSE:** *This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.155.*

**AUTHORITY:** section 313.065, RSMo Supp. 1993. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED RESCISSON**

**11 CSR 45-30.170 Records Required.** This rule required accurate records to be maintained and made available for inspection at each bingo occasion.

**PURPOSE:** *This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.175.*

**AUTHORITY:** section 313.065, RSMo Supp. 1993. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994.

*Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Rescinded: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.175 Organization (Operator) Record Keeping Requirements.** The commission is amending section (1), deleting section (2), renumbering sections (3) and (4) and amending and renumbering sections (5)—(10).

**PURPOSE:** *This rule is being amended to further describe the record keeping requirements and record retention requirements for bingo organizations licensed by the commission, effective January 1, 1995.*

(1) An organization shall maintain complete, accurate, and legible general accounting records, with detailed records sufficient to furnish information by category that contain sufficient detail to furnish information, which must be made available and recorded at each occasion, regarding all bingo game activity/. including the number of admission fees, if any, the number of regular, extra regular, special game, and pull-tab cards sold. Records shall be sufficient to adequately reflect gross receipts, as defined in 11 CSR 45-30.205, prizes awarded, expenses, and other bingo game related transactions to include all bingo paper and pull-tab sales which accurately reflect the requirements and restrictions contained in the Missouri Constitution and Chapter 313, RSMo.

*[(2) Gross receipts shall be determined by the amount of cash and checks actually received.]*

*[(3)](2) Allowable expenses shall be determined by the amount of money paid out for prizes and checks written for bingo related expenses pursuant to Chapter 313, RSMo.*

*[(4)](3) Each organization shall deposit its bingo proceeds in a financial institution located in Missouri and shall perform a monthly reconciliation, which lists outstanding checks, deposits, and beginning and ending book balances for the month.*

*[(5)](4) Copies of supplier invoices for all bingo paper, pull-tabs, and bingo equipment purchased must be maintained and stored by the organization.*

*/(6)/(5) Winning bingo cards or bingo sheets [must be retained by the organization] for values of two hundred dollars (\$200) or more must be signed by the winner, dated, and retained by the organization for a period of one (1) year. [The card must be signed by the winner and dated.]*

*/(7)/(6) All pull-tab flares must be retained. Each winning pull-tab card [must be retained by the organization] for values of one hundred dollars (\$100) or more must be signed by the winner, dated, and retained by the organization for a period of one (1) year. [The winning card must be signed by the winner and dated.]*

*/(8)/(7) At the time each winning bingo card, bingo sheet, or [pull tab] pull-tab card is identified, it must be validated by either marking it with permanent ink or a hole punched by the operator so that it cannot be reused, resold, or reclaimed. All pull-tab winners must be retained until the end of each occasion to determine prizes awarded.*

*/(9)/(8) All records[,] not specified in sections (6) or (7) of this rule, as well as all ledgers, receipts, and invoices required by this rule and Chapter 313, RSMo, must be retained for a period of three (3) years, [//unless prior written approval is received from the commission//] to retain any such record, ledger, receipt, or invoice for a period less than three (3) years, and stored in such a manner as to be immediately available for inspection by the commission upon demand.*

*/(10)/(9) Operators are only allowed to buy bingo paper, pull-tabs, and bingo equipment from suppliers licensed by the commission. If violations of this restriction or other restrictions listed in this rule, or Chapter 313, RSMo, are identified by the commission, the [operators] operator's license [could] may be subject to [immediate] suspension or revocation. The term bingo equipment and supplies does not include markers, cushions, bags and other incidentals.*

*AUTHORITY: section 313.065, RSMo [1994] 2000. Original rule filed Dec. 15, 1994, effective May 28, 1995. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

## Title 11—DEPARTMENT OF PUBLIC SAFETY Division 45—Missouri Gaming Commission Chapter 30—Bingo

### PROPOSED AMENDMENT

**11 CSR 45-30.180 [Inventory and Ownership] Inventory, Ownership, and Leasing of Bingo Equipment.** The commission is amending the title, deleting sections (1) and (2) and adding new sections (1) and (2).

*PURPOSE: This proposed amendment incorporates the definition of co-ownership of bingo equipment currently found in 11 CSR 45-30.290 and the permissible rental terms for bingo equipment currently found in 11 CSR 45-30.300.*

*(1) Accurate records must be maintained indicating the quantity and ownership of all equipment used directly in the conduct of bingo. Owner's name must be indicated on the equipment.]*

*(2) Each licensee shall keep a separate inventory of bingo paper and pull tabs. Bingo paper and pull tabs purchased by one licensee may not be used during another licensee's game without prior approval from the commission.]*

(1) No bingo licensee that is the holder of a regular bingo license shall use bingo equipment in which the licensee does not have an ownership interest. Two (2) or more bingo licensees may enter into an agreement for the joint ownership of bingo equipment. No nonlicensee shall share any interest in the equipment except the security interest of an established financial institution. The equipment may not be purchased from a nonlicensee who has an interest in the premises on which the equipment is to be used. A copy of the purchase agreement may be requested by the commission and shall contain the following information:

- (A) The percentage of ownership;
- (B) The total cost of the co-ownership;
- (C) The amount and terms of any time payment (if applicable);
- (D) The name of the seller and other co-owners;
- (E) Acceptable method(s) for sale or disposition of the co-ownership; and
- (F) A description of the bingo equipment purchased.

(2) Bingo equipment shall only be leased from a licensed supplier. No lease providing for a rental arrangement for bingo equipment shall provide for payment in excess of the reasonable market rental rate for such equipment and in no case shall any payment be based on a percentage of gross receipts or profits derived from the game of bingo.

*AUTHORITY: section 313.065, RSMo [Supp. 1998] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Oct. 29, 1999, effective May 30, 2000. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or*

*actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.200 Merchandise Prizes.** The commission is amending section (1).

**PURPOSE:** *This rule is being amended to included merchandise prizes for pull-tabs and to clarify the documentation required.*

(1) When merchandise is awarded as a prize in a *[game of]* bingo or pull-tab game, its value shall be the suggested retail price or fair retail market value. Receipts for the purchase of merchandise prizes or documentation as to the suggested retail price or fair market value of donated items to be awarded as merchandise prizes must be retained in the records of any licensee awarding the prizes to players or supplying the prizes to another licensee.

**AUTHORITY:** *section 313.065, RSMo [Supp. 1993] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.205 Game Operation Definitions.** The commission is amending section (1).

**PURPOSE:** *This proposed amendment clarifies the definition of gross receipts throughout the bingo regulations.*

(1) Gross receipts—all receipts from *[the]* admission charges, sale of any regular or special game bingo cards, pull-tab cards, or *[other miscellaneous items, excluding concessions]* any item sold for which the proceeds are commingled with bingo funds.

**AUTHORITY:** *section 313.065, RSMo [Supp. 1997] 2000. Original rule filed Sept. 2, 1997, effective March 30, 1998. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.210 Reports.** The commission is amending section (4) and deleting section (5).

**PURPOSE:** *This rule is being amended to clarify that a summary of the four (4) quarters is not required to meet statutory requirements.*

(4) *[The annual report as required pursuant to 313.045, RSMo, can be a combination of the fourth quarter report and a summary of the three (3) prior quarterly reports.]* Each licensee must submit with their quarterly report a progressive game activity report for each progressive game conducted. The report must indicate the following:

- (A) Date of each occasion;
- (B) The progressive prize offered;
- (C) The consolation prize offered;
- (D) The number of balls needed to win the progressive prize; and
- (E) The prize amount awarded.

*[(5) Each licensee must submit with their quarterly report a progressive game activity report for each progressive game conducted. The report must indicate the date of each occasion, the progressive prize offered, the consolation prize offered, number of balls needed to win the progressive prize and the prize amount awarded.]*

**AUTHORITY:** *section 313.065, RSMo [Supp. 1998] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed July 3, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 17, 1995, effective Nov. 27, 1995, expired May 24, 1996. Amended: Filed Nov. 17, 1995, effective April 30, 1996. Amended: Filed Oct. 29, 1999, effective May 30, 2000. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED RESCISSION**

**11 CSR 45-30.220 Bank Account.** This rule required that licensees maintain a separate bank account for their bingo activities. This method of accounting precluded the commingling of receipts and disbursements with the financial records of other activities of the organization.

**PURPOSE:** *This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.280.*

**AUTHORITY:** *section 313.065, RSMo Supp. 1998. Emergency rule filed on June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Aug. 5, 1996, effective March 30, 1997. Amended: Filed Oct. 29, 1999, effective May 30, 2000. Rescinded: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rescission will not cost private entities more than five hundred dollars (\$500).*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.235 [Reasonable Market Rental for Leased Premises] Reasonable Market Rental Rate for Leased Premises and Leased Locations.** The commission is amending the title and adding sections (2)–(5).

**PURPOSE:** *This proposed amendment incorporates the conditions and restrictions for leasing bingo locations found in 11 CSR 45-30.240, into sections (2)–(5).*

**(2) Hall providers who qualify to lease locations for the conduct of bingo may lease the location(s) to the type of (A), (B), and (C) licensees as described in 11 CSR 45-30.065, only if they have obtained a license from the commission.**

**(3) Licensees may not sublease the premises to any other licensee for the purpose of conducting bingo.**

**(4) Hall providers must charge each licensee their equal prorated amount of the rent which shall not exceed the prorated amount each licensee is charged for the same time under the terms of the lease.**

**(A) Example:** *If a hall provider's total weekly rental charge to four (4) bingo licensees is twelve hundred dollars (\$1,200), the hall provider must charge each organization twenty-five percent (25%) of the weekly rental charge or in this example three hundred dollars (\$300).*

**(5) Each licensee is responsible for paying the rent directly to the licensed hall provider from a check drawn from the licensee's bingo checking account.**

**AUTHORITY:** *section 313.065, RSMo [Supp. 1993/ 2000. Emergency rule filed on June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED RESCISSION**

**11 CSR 45-30.240 Leased Locations.** This rule set forth the conditions and requirements for leasing bingo locations as set forth in Chapter 313, RSMo.

**PURPOSE:** This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.235.

**AUTHORITY:** section 313.065, RSMo Supp. 1997. Emergency rule filed July 29, 1994, effective Aug. 11, 1994, expired Dec. 5, 1994. Original rule filed July 29, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 10, 1998, effective June 30, 1999. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.270 Premises Defined, Inspections, All Gambling and Gambling Devices Prohibited.** The commission is amending section (3).

**PURPOSE:** This proposed amendment makes it clear that no bingo licensee may conduct unauthorized gambling or possess gambling devices on the licensee's premises.

(3) Pursuant to section 313.035, RSMo, no **unauthorized** gambling or gambling devices, as **defined by Chapter 572, RSMo**, shall be permitted on the premises used by a bingo licensee. The bingo licensee, its officers, and agents shall be responsible for any violations [which] that may occur.

**AUTHORITY:** section 313.065, RSMo [1994] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed July 3, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 17, 1995, effective Nov. 27, 1995, expired May 24, 1996. Amended: Nov. 17, 1995, effective April 30, 1996. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety,

Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.280 [Net Receipts from Bingo] Net Receipts from Bingo and Bank Account.** The commission is amending sections (1), (3) and (4), and adding sections (5)–(7).

**PURPOSE:** This proposed amendment further clarifies the proper disposition of bingo receipts and incorporates the provisions of 11 CSR 45-30.220 which requires licensees to maintain a separate bank account for bingo funds.

(1) Pursuant to section 313.040.1, RSMo, the entire net receipts over and above the actual cost of conducting the game of bingo as enumerated in section 313.040.1, RSMo may be paid from the bingo checking account into the general treasury of the licensed bingo organization. All bingo funds paid into the general treasury of the licensed bingo organization shall be devoted exclusively to lawful, charitable, religious or philanthropic purposes of the licensed organization. However, no funds from any source shall be used to compensate anyone affiliated with the licensee for managing, conducting or operating the game of bingo or to provide any services or equipment for the game of bingo [which are not among those enumerated in section 313.040.1, RSMo].

(3) [The commission upon request may examine any account into which bingo proceeds are deposited or transferred.] All receipts from each bingo occasion, less the amount awarded as cash prizes for that occasion, shall be deposited in a special bingo checking account in a financial institution located in Missouri no later than the next business day following the date of the bingo occasion. Disbursements for reasonable and necessary expenses incidental to the conduct of bingo games must be paid from the special bingo checking account on preprinted, serially numbered checks. Checks must be payable to a specific payee. At no time may checks be made payable to "cash."

(4) [Any licensee who denies the commission access to any account into which bingo proceeds are deposited or transferred, may have its license suspended until such access is granted.] If an organization uses starting cash, a check must be written to a financial institution, retail establishment, or to a charitable organization to obtain the starting cash. The entire amount of the starting cash obtained by the organization must be redeposited into the bingo checking account no later than the next business day. An organization may use a debit transaction instead of a check to obtain starting cash from their bingo checking account, however, each debit transaction must be reported with other disbursements from the bingo checking account on the quarterly report, as required by 11 CSR 45-30.210.

(5) Bingo operators may not deposit receipts from any other fund-raising activities of the organization into the bingo checking account; except as needed, game operators may transfer funds from another account into the bingo checking account to cover

bingo game related expenses. Any monies deposited into the bingo checking account are deemed to be bingo proceeds and can only be used to pay bingo gaming expenses or for religious, charitable, or philanthropic purposes.

(6) The commission upon request may examine any account into which bingo proceeds are deposited or transferred.

(7) Any licensee who denies the commission access to any account into which bingo proceeds are deposited or transferred may have its license immediately suspended until such access is granted.

**AUTHORITY:** section 313.065, RSMo [Supp. 1998] 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Oct. 29, 1999, effective May 30, 2000. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED RESCISSION**

**11 CSR 45-30.290 Co-Ownership of Bingo Equipment.** This rule explained the proper manner of obtaining and retaining bingo equipment that was used by multiple licensees.

**PURPOSE:** This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.180.

**AUTHORITY:** section 313.065, RSMo Supp. 1993. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety,

Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED RESCISSION**

**11 CSR 45-30.300 Equipment Leases, Reasonable Market Rental Rate.** This rule ensured compliance with section 313.025, RSMo, which required the commission to determine that all equipment was leased at a reasonable market rental rate.

**PURPOSE:** This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.180.

**AUTHORITY:** section 313.065, RSMo Supp. 1993. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.340 Participation of Full-Time Employee, Full-Time Staff Member or Ordained Member of Clergy.** The commission is amending section (1), adding new sections (2) and (3) and renumbering the remaining sections accordingly.

**PURPOSE:** This proposed amendment clarifies the approval process organizations must adhere to for full-time employee or staff members.

(1) No full-time employee or full-time staff member employed by an organization licensed to conduct bingo may participate in the management, conduct, or operation of bingo games until the time that the

organization has submitted proof on forms prescribed by the commission to verify the eligibility of the *[person(s)] employee or staff member* to participate in the management, conduct, or operation of bingo. The commission shall approve *[and]* or disapprove the participation of the full-time employee or full-time staff member within thirty (30) days of receipt of the proof of eligibility submitted by the organization. The commission may immediately suspend the participation of any full-time employee or full-time staff member *[in the management, conduct or operation of bingo]* upon determination by the commission that the employee or staff member is no longer eligible to participate in the management, conduct, or operation of bingo.

(2) The organization of any full-time employee or full-time staff member whose participation has been disapproved or suspended by the commission may resubmit proof on forms prescribed by the commission to verify the employee or staff member's eligibility to participate in the management, conduct, or operation of bingo at any time following the commission's disapproval or suspension of the employee or staff member's participation. The commission shall sustain, modify, or rescind the suspension of the full-time employee or full-time staff member or approve or disapprove the participation of the employee or staff member within thirty (30) days of receipt of the proof of eligibility resubmitted by the organization. No organization, without prior written permission from the commission, may resubmit proof of eligibility more than two (2) times within a one (1)-year period for any full-time employee or full-time staff member whose participation has been disapproved or suspended by the commission.

(3) The burden of proof as to the eligibility of a full-time employee or full-time staff member to participate in the management, conduct, or operation of bingo shall at all times rest with the organization seeking approval for the employee or staff member's participation. The approval, disapproval, or suspension of the participation of a full-time employee or full-time staff member shall be within the sole discretion of the commission.

(2)(4) Any person who is a duly ordained member of the clergy and who is a member of the church or church organization licensed to conduct bingo may participate in the management, conduct or operation of the organization's licensed bingo games without securing the approval of the commission.

(3)(5) No part-time employee or part-time staff member of the organization licensed to conduct bingo may participate in the management, conduct or operation of the organization's licensed bingo games.

**AUTHORITY:** section 313.065, RSMo *[Supp. 1993]* 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who

feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED RESCISSON**

**11 CSR 45-30.350 Pull-Tab Cards.** This rule defined the meaning of the term pull-tab cards and stated when pull-tab cards could be sold, as well as clarified the monetary value for prizes given in conjunction with the use of pull-tab cards and set the maximum price for a single pull-tab card at one dollar (\$1).

**PURPOSE:** This rule is being rescinded as its provisions have been incorporated into the proposed amendment to 11 CSR 45-30.355.

**AUTHORITY:** section 313.065, RSMo Supp. 1996. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Emergency amendment filed Aug. 5, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed Aug. 5, 1996, effective March 30, 1997. Rescinded: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this rescission, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.355 Sale of Pull-Tab Cards by Bingo Licensees.** The commission is amending sections (1) and (2) and adding sections (3)–(5).

**PURPOSE:** This proposed amendment clarifies the definition of pull-tabs and places restrictions on the sale of pull-tabs by bingo licensees.

(1) *[Type A and B licensees as identified in 11 CSR 45-30.065 must comply with the following:*

*(A) On each occasion, pull-tab cards may be sold no more than two (2) hours prior to the start of the first game of*

*bingo, except that no bingo pull-tab cards may be sold prior to 10:00 a.m.;*

*(B) The sale of pull-tab cards must be discontinued immediately at the conclusion of the last bingo game;*

*(C) Pull-tab cards shall only be sold during the time of the scheduled event and only on the stated premises as identified in the license application of the organization; and*

*(D) Pull-tab cards shall be sold in the immediate space in which the licensed organization is conducting bingo games.] A pull-tab card is any disposable card or ticket which accords a person an opportunity to win something of value by opening, pulling, detaching, or otherwise removing tabs from the card or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof. The term pull-tab card shall include any card known as a pickle ticket, pickle, break-open, or pull-tab card. Such pull-tab cards must award at least sixty percent (60%) of the gross revenues generated by the ultimate sale of the entire unit container or box to the final purchaser(s).*

*(2) [Type C licensees as identified in 11 CSR 45-30.065 must comply with the following:] The price for a single pull-tab card may not exceed one dollar (\$1).*

*(A) An organization may conduct no more than four (4) occasions per calendar year at which only pull tabs are sold;*

*(B) Pull-tab cards may only be sold during the scheduled event and on the stated premises as identified in the license applications of the organization; and*

*(C) No bingo games may be conducted.]*

*(3) The use of any pull-tab card that is not within the definition of Chapter 313, RSMo is prohibited.*

*(4) Licensees possessing the type of license as identified in 11 CSR 45-30.065(1)(A) or (B), must comply with the following:*

*(A) On each occasion, pull-tab cards may be sold no more than two (2) hours prior to the start of the first game of bingo, except that no bingo pull-tab cards may be sold prior to 10:00 a.m.;*

*(B) The sale of pull-tab cards must be discontinued immediately at the conclusion of the last bingo game of an occasion;*

*(C) Pull-tab cards shall only be sold during the time of a scheduled occasion and only on the stated premises as identified in the license application of the organization; and*

*(D) Pull-tab cards shall only be sold in the immediate space in which the licensed organization is conducting bingo games.*

*(5) Licensees possessing the type of license as identified in 11 CSR 45-30.065(1)(C), must comply with the following:*

*(A) An organization may conduct no more than four (4) occasions per calendar year at which only pull-tabs cards are sold;*

*(B) Pull-tab cards may only be sold during a scheduled occasion and on the stated premises as identified in the license application of the organization; and*

*(C) No bingo games may be conducted.*

*AUTHORITY: section 313.065, RSMo 2000. Emergency rule filed June 21, 1994, effective July 1, 1994, expired Oct. 28, 1994. Emergency rule filed Oct. 19, 1994, effective Oct. 29, 1994, expired Feb. 25, 1995. Original rule filed July 11, 1994, effective Jan. 29, 1995. Emergency amendment filed Aug. 5, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed Aug. 5, 1996, effective March 30, 1997. Amended: Filed Aug. 28, 1998, effective March 30, 1999. Amended: Filed Feb 1, 2002, effective Aug. 30, 2002. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.370 Progressive Games.** The commission is adding section (11).

*PURPOSE: This proposed amendment clarifies that progressive bingo games may be played with electronic bingo card monitoring devices.*

**(11) Progressive games may be played on electronic bingo card monitoring devices.**

*AUTHORITY: section 313.065, RSMo [Supp. 1998] 2000. Emergency rule filed Aug. 5, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Original rule filed Aug. 5, 1996, effective March 30, 1997. Amended: Filed May 6, 1999, effective Dec. 30, 1999. Amended: Filed Oct. 29, 1999, effective May 30, 2000. Amended: Filed Dec. 1, 2004.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.525 Supplier Record Keeping Requirements.** The commission is amending section (8).

**PURPOSE:** *This proposed amendment makes no substantive changes to the regulation, as it is being amended for a revision in wording.*

(8) Suppliers are only allowed to buy bingo products from *licensed Missouri* manufacturers **licensed in Missouri** and are only allowed to sell bingo products to *licensed Missouri* suppliers or operators **licensed in Missouri**. Suppliers may, however, sell bingo paper to entities who are not licensed with the commission, if the paper is used for a free, no-charge bingo game. Prior approval must be obtained from the commission by the entity that is going to use the bingo paper **each time a purchase of such items is made**. The supplier must maintain a copy of the approval with the original invoice. The paper must be marked as prescribed by the commission, to reflect the paper may not be used in conjunction with a licensed bingo game. Suppliers are allowed to sell products tax free to suppliers or operators in other states (export sales), if the record keeping requirements listed in sections (2)–(4) of this rule are followed. Suppliers shall maintain a separate invoice file for all Missouri tax-exempt sales. If violations of this restriction or the other restrictions listed in this rule or Chapter 313, RSMo are identified by the commission, the supplier's license could be subject to immediate suspension or revocation.

**AUTHORITY:** *section 313.065, RSMo 2000. Emergency rule filed Dec. 15, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed May 2, 1995, effective May 12, 1995, expired Sept. 8, 1995. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Amended: Filed May 6, 1999, effective Dec. 30, 1999. Amended: Filed Oct. 1, 2001, effective May 30, 2002. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

## **Title 11—DEPARTMENT OF PUBLIC SAFETY Division 45—Missouri Gaming Commission Chapter 30—Bingo**

### **PROPOSED AMENDMENT**

**11 CSR 45-30.545 Contraband.** The commission is amending section (5) and adding section (6).

**PURPOSE:** *The rule is being amended to add bingo paper not fitting the statutory requirements as contraband.*

(5) *[The commission or its agents may seize the contraband and determine its lawful disposition.]* Bingo paper that does not meet the statutory requirements of sections 313.004 to 313.085, RSMo, or has not been approved by the commission is declared contraband.

(6) The commission or its agents may seize any and all contraband and determine its lawful disposition.

**AUTHORITY:** *section 313.065, RSMo [Supp. 1996] 2000. Original rule filed July 3, 1995, effective Jan. 30, 1996. Emergency amendment filed Aug. 5, 1996, effective Aug. 28, 1996, expired Feb. 23, 1997. Amended: Filed Aug. 5, 1996, effective March 30, 1997. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.*

## **Title 11—DEPARTMENT OF PUBLIC SAFETY Division 45—Missouri Gaming Commission Chapter 30—Bingo**

### **PROPOSED AMENDMENT**

**11 CSR 45-30.575 Pull-Tab Packaging, Assembly and Distribution.** The commission is amending sections (7) and (8).

**PURPOSE:** *This proposed amendment makes no substantive changes to the regulation, as it is being amended for a revision in wording.*

(7) *[Pull tabs] Pull-tabs shall be [constructed and glued, sealed, or banded] manufactured* so that it is impossible to determine **by any method or device** the covered or concealed numbers, symbol, set of symbols, or game protection on the *[pull tab] pull-tab* until it has been dispensed to and opened by the player, **by any method or device, including but not limited to, markings, variances in size, variances in paper fiber, color or printing variations or light].**

(8) All *[pull tabs] pull-tabs* will be *[constructed]* manufactured to ensure that, when offered for sale to the public, the *[pull tab] pull-tab* is *[virtually opaque and]* free of security defects *[wherein]* so that the winning or losing *[pull tabs] pull-tabs* cannot be determined **by any method or device** prior to being opened *[through the use of high intensity lights, peeking, or any other method]* by the player.

**AUTHORITY:** *section 313.065, RSMo [Supp. 1997] 2000. Original rule filed Sept. 2, 1997, effective March 30, 1998. Amended: Filed Nov. 10, 1998, effective June 30, 1999. Amended: Filed Dec. 1, 2004.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 30—Bingo**

**PROPOSED AMENDMENT**

**11 CSR 45-30.600 Electronic Bingo Card Monitoring Devices.** The commission is amending subsection (7)(B).

**PURPOSE:** This proposed amendment makes no substantive changes to the regulation, as it is being amended for a revision in wording.

(7) No EBCMD shall be able to monitor more than fifty-four (54) bingo cards per game.

(B) All downloading into the EBCMD, either from electronic bingo cards or disposable paper bingo cards, must be completed prior to the drawing of the first ball for that bingo *[occasion]* game. If an EBCMD must be voided and reissued after the start of the game, the EBCMD must be reloaded with the same bingo face numbers or replaced with an EBCMD which was downloaded prior to the drawing of the first ball as described in 11 CSR 45-30.190.

**AUTHORITY:** section 313.065, RSMo [Supp. 1999] 2000. Original rule filed Nov. 10, 1998, effective June 30, 1999. Amended: Filed May 6, 1999, effective Dec. 30, 1999. Amended: Filed Oct. 4, 2000, effective June 30, 2001. Amended: Filed Dec. 1, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this proposed amendment, are requested to submit the cost (estimated or actual, if available) with the comments. A public hearing is scheduled for 10:00 a.m. on February 4, 2005, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 41—General Tax Provisions**

**PROPOSED AMENDMENT**

**12 CSR 10-41.010 Annual Adjusted Rate of Interest.** The department proposes to amend section (1).

**PURPOSE:** Under the Annual Adjusted Rate of Interest (section 32.065, RSMo), this amendment establishes the 2005 annual adjusted rate of interest to be implemented and applied on taxes remaining unpaid during calendar year 2005.

(1) Pursuant to section 32.065, RSMo, the director of revenue upon official notice of the average predominant prime rate quoted by commercial banks to large businesses, as determined and reported by the Board of Governors of the Federal Reserve System in the Federal Reserve Statistical Release H.15(519) for the month of September of each year, has set by administrative order the annual adjusted rate of interest to be paid on unpaid amounts of taxes during the succeeding calendar year as follows:

Calendar Year	Rate of Interest on Unpaid Amounts of Taxes
1995	12%
1996	9%
1997	8%
1998	9%
1999	8%
2000	8%
2001	10%
2002	6%
2003	5%
2004	4%
<b>2005</b>	<b>5%</b>

**AUTHORITY:** section 32.065, RSMo 2000. Emergency rule filed Oct. 13, 1982, effective Oct. 23, 1982, expired Feb. 19, 1983. Original rule filed Nov. 5, 1982, effective Feb. 11, 1983. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 30, 2004, effective Jan. 1, 2005, expires June 29, 2005. Amended: Filed Nov. 30, 2004.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will cost private entities more than five hundred dollars (\$500) in the aggregate. Although the future amount of past due taxes is unknown, the aggregate cost of the proposed one percent (1%) interest increase on the gross amount of delinquent taxes as of June 30, 2004, would be \$6,609,330.43.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE  
PRIVATE COST**

**RULE NUMBER**

<b>Rule Number and Name:</b>	12 CSR 10-41.010 Annual Adjusted Rate of Interest
<b>Type of Rulemaking:</b>	Proposed Amendment

**SUMMARY OF FISCAL IMPACT**

<b>Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule</b>	<b>Classification by types of the business entities which would likely be affected:</b>	<b>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:</b>
Any taxpayer with past due tax amounts.	Any taxpayer with past due tax amounts.	Because the amount of interest collected on past due amounts of taxes will be at an increased rate, the aggregate impact on private entities will be more than \$500. The future amount of past due taxes is unknown, however, the gross amount of delinquent taxes as of June 30, 2004, was \$660,933,043. The increased interest on that amount as a result of the proposed amendment would be \$6,609,330.43. The precise dollar impact on private entities is also unknown, however, for interest accrued on tax amounts owed as of or after the effective date of this rule, the cost to the private entity will be \$1 per year for every \$100 of tax owed.

**WORKSHEET**

The future amount of past due taxes is unknown. The gross amount of delinquent taxes as of June 30, 2004, was \$660,933,043. The 1% interest increase on that amount as a

result of the proposed amendment would be \$6,609,330.43. The precise dollar impact on private entities is also unknown, however, for interest accrued on tax amounts owed as of or after the effective date of this rule, the cost to the private entity will be \$1 per year for every \$100 of tax owed. Following is a comparison for the cost to a taxpayer with a past due amount of \$100:

	Current Rule – 4%	Proposed Amendment – 5%
Past due tax amount	\$100.00	\$100.00
Interest amount	4.00	5.00
Total Amount Due	\$104.00	\$105.00

## ASSUMPTIONS

Pursuant to Section 32.065, RSMo, the director of revenue is mandated to establish an annual adjusted rate of interest based upon the adjusted prime rate charged by banks during September of that year as set by the Board of Governors of the Federal Reserve rounded to the nearest full percent. Because the future amount of past due taxes is unknown, the precise dollar impact on private entities is also unknown, however, for interest accrued on tax amounts owed as of or after the effective date of this rule, the cost to the private entity will be \$1 per year for every \$100 of tax owed.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 104—Sales/Use Tax—Registration**

**PROPOSED RULE**

**12 CSR 10-104.040 Direct-Pay Agreements**

*PURPOSE: This rule explains how to qualify for and enter into a direct-pay agreement with the department pursuant to section 144.190.4, RSMo. A direct-pay agreement requires a taxpayer to accrue and pay tax on all its purchases directly to the department instead of the seller.*

(1) In general, a purchaser making more than seven hundred fifty thousand dollars (\$750,000) in annual purchases may enter into a direct-pay agreement with the department to accrue and pay taxes owed on all its purchases directly to the department instead of the seller.

(2) Basic Application.

(A) To obtain a direct-pay agreement, a purchaser must complete an application prescribed by the department and demonstrate with its records that it qualifies.

(B) In determining whether the purchaser has more than seven hundred fifty thousand dollars (\$750,000) in annual purchases, only purchases of tangible personal property and taxable services that are not for resale are included.

(C) Upon approval of a direct-pay agreement, the department will issue a certificate that the purchaser must present to its sellers. Acceptance of this certificate relieves the seller from responsibility for collecting and remitting the tax.

(D) A direct-pay agreement remains in effect for five (5) years, unless the department or the taxpayer cancels the agreement. If the agreement is cancelled, the purchaser must notify each seller in writing that its certificate is no longer valid.

(E) A purchaser with a direct-pay agreement must accrue and pay all taxes based upon the purchaser's place of business. The purchaser must file returns and pay tax monthly. If filed and paid on a timely basis, the two percent (2%) payment discount will be allowed.

(3) Examples.

(A) A purchaser has been buying taxable supplies from a Missouri seller and the seller has been collecting and remitting sales tax. The purchaser enters into a direct-pay agreement with the department. The purchaser then provides a copy of its direct-pay certificate to the seller. The seller stops collecting sales tax on the purchaser's transactions. The purchaser must pay tax on these purchases directly to the department based upon the purchaser's place of business.

(B) A taxpayer has been granted a direct-pay exemption. The taxpayer makes five hundred thousand dollars (\$500,000) in purchases for its place of business in St. Louis and seven hundred thousand dollars (\$700,000) for its place of business in Branson. The taxpayer should file a direct-pay return and report the purchases at the St. Louis rate for the St. Louis purchases and at the Branson rate for the Branson purchases.

*AUTHORITY: section 144.190.4, RSMo Supp. 2003. Original rule filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Revenue one thousand seven hundred eighty-four dollars (\$1,784) with that cost recurring annually over the life of the rule.*

*PRIVATE COST: This proposed rule is estimated to cost private entities twenty thousand one hundred sixty dollars (\$20,160) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC COST****I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-104.040 Direct-Pay Agreements
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance in the Aggregate
Missouri Department of Revenue	\$1,784.16

**III. WORKSHEET**

It costs the Department of Revenue \$2.25 to process a typical direct pay return. Based on an estimated returns filed by direct pay customers in a given year, the costs to process are  $672 \times \$2.25 = \$1,512$ . The Department of Revenue's costs to print and mail returns to newspaper and other publication vendors are \$.405 per return. The calculation for these costs are  $672 \times \$.405 = \$272.16$ .

**IV. Assumptions**

The costs assume no postal discounts for mailing are realized. It also assumes an annual salary for a Tax Processing Technician of \$23,006. (The department has not calculated any impact for the 2 percent allowance for timely filed returns.)

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-104.040 Direct-Pay Agreements
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
56	Vendors - \$30 cost per return to prepare and file a sales tax return.	\$20, 160

**III. WORKSHEET**

The Department of Revenue receives approximately 672 returns per year from approximately 56 direct pay customers. The estimated cost to prepare and file a return per business is \$30 per filed return. The cost to all direct pay customers to comply is 672 X \$30= \$20,160.

**IV. ASSUMPTIONS**

The rule does not change existing practice. The department cannot determine the actual costs of preparing and filing a return. The department assumes for purposes of this fiscal note that it costs \$30 per return. The department also assumes that the taxpayer would not otherwise be filing a sales or use tax return, but instead would be paying sales tax to its vendors for its purchases. The department assumes every business makes at least one purchase per reporting period.

The figure above is based on the assumption every business makes at least one purchase per reporting period. (The department has not calculated any impact for the 2 percent allowance for timely filed returns.)

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 110—Sales/Use Tax—Exemptions**

**PROPOSED RULE**

**12 CSR 10-110.400 Newspapers and Other Publications**

**PURPOSE:** *This rule explains the application of sales and use tax law to the publication and sale of newspapers and other publications. Additionally, section 144.030.2(8), RSMo exempts from taxation newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public. This rule explains what elements must be met in order to qualify for this exemption. The sale of publications that are not in tangible form is not subject to tax and is not addressed in this rule.*

(1) In general, newspapers, magazines, newsletters, periodicals, trade journals, books and other publications are tangible personal property and their sale is subject to tax to the same extent as any other personal property. Sellers of printed materials are subject to all rules applicable to other sellers of tangible personal property, except as otherwise specifically provided in this rule. Machinery, equipment, replacement parts, and supplies used to produce newspapers for dissemination of news to the general public are exempt from tax. Publishers of other printed materials are not included within the same exemption as newspapers that disseminate news to the general public but may qualify for exemptions applicable to manufacturers to the same extent as any other manufacturer.

(2) **Definition of Terms.**

(A) **Equipment**—devices that have a degree of permanence to the business, contribute to multiple processing cycles over time and generally constitute fixed assets, other than land and buildings, that are capitalized and depreciated for purposes of business and accounting practices.

(B) **Machinery**—combinations of parts that work together as a functioning unit, even if they are subordinate elements of more complex machinery. Machinery may be simple or complex, but does not include the replacement of an individual part, even if that part becomes an element of a functioning machine.

(C) **Newspapers published for the dissemination of news to the general public**—publications that are published at stated short intervals, usually daily or weekly, and contain news of current events available for distribution to anyone; that do not, when successive issues are put together, constitute a book; and that are generally in sheet form.

(D) **Parts**—articles of tangible personal property that are components of machinery or equipment, which can be separated from the machinery or equipment and replaced. Like machinery and equipment, parts must have a degree of permanence and durability. Items that are consumed in a single processing and benefit only one (1) production cycle are materials and supplies, not parts. Items such as: nuts, bolts, hoses, hose clamps, chains, belts, gears, drill bits, grinding heads, blades, and bearings, would ordinarily be considered parts. Substances such as fuels and coolants that are added to machinery and equipment for operation are not parts. Substances such as lubricants, paint and adhesives that adhere to the surface of machinery and equipment but are not distinct articles of tangible personal property, are not parts; these items would be considered materials or supplies within the meaning of the exemptions.

(E) **Producing**—for purposes of this rule only, the process of creating a newspaper.

(F) **Publisher**—a person who prepares and issues a publication for public distribution.

(G) **Publication**—any written material, such as newspapers, magazines, newsletters, periodicals, trade journals, and books, offered for sale or distribution.

(H) **Supplies**—for purposes of this rule only, tangible personal property consumed in the production of a newspaper. The term supplies does not include fuel.

(3) **Basic Application of Exemption.**

(A) If the retail purchaser buys a publication directly from the publisher or the publisher bears the risk of loss for noncollection, the publisher is the seller and must collect and remit the tax. If the retail purchaser buys the publication from someone other than the publisher and that person bears the risk of loss for noncollection, then that person is the seller and must collect and remit the tax.

(B) If the purchaser receives the publication in Missouri, the seller must collect and remit sales tax, unless the order for the publication is approved outside Missouri and delivered to the purchaser from outside Missouri by common or contract carrier, in which case the seller must collect and remit use tax.

(C) The sale of a publication subject to state sales tax is subject to the local sales tax at the rate in effect at the seller's place of business in Missouri. A sale of a publication subject to state use tax is subject to the local use tax in effect where the publication is first delivered in Missouri.

(D) The sale by the publisher of a publication through a vending machine is subject to tax based on one hundred thirty-five percent (135%) of the average price at which the publisher sells the publication to vendors or on actual gross receipts. The sale of a publication through a vending machine is subject to local sales tax at the rate in effect where the vending machine is located.

(E) If the purchaser is required to pay for delivery, handling, postage costs or similar service charges as part of the sale price of the publication, the entire sale price is subject to tax. If the purchaser is not required to pay the service charge as part of the sale price of the publication, the amount paid for the service is not subject to tax if the charge for such service is separately stated. If the charge for the service is not separately stated, the entire sale price is subject to tax.

(F) A publisher may set the individual copy price to a round amount including tax, provided that the publication states somewhere that the amount of the price includes tax. Any other seller must collect and remit tax on the sale price of the publication.

(G) A publisher may purchase an insert to its publication exempt from tax as an ingredient or component part. See 12 CSR 10-110.200.

(4) **Examples.**

(A) An individual in Missouri subscribes to the local newspaper by contracting with the publisher. The publisher contracts with a third party to deliver the newspaper and collect the entire cost of the newspaper, including delivery charges, which are not separately stated. The publisher bears the risk that the individual will not pay for the subscription. The publisher is the seller and must collect and remit sales tax, including local sales tax at the rate in effect at the publisher's place of business. Tax is imposed on the entire sale price, including delivery charges, because the delivery charges are not separately stated. The publisher may set the price at a round amount, including tax, as long as the publication states somewhere that the price includes tax.

(B) An individual in Missouri subscribes to an out-of-state newspaper by contracting with a Missouri newspaper carrier, which is the only way to obtain this newspaper in Missouri. The carrier bears the risk that the individual will not pay for the subscription. The carrier is the seller and must collect and remit sales tax, including local sales tax at the rate in effect at the carrier's place of business. Tax is imposed on the entire sale price, including delivery charges, because the delivery charges must be paid to receive the newspaper.

(C) An individual in Missouri subscribes to an out-of-state newspaper by contracting with the out-of-state publisher that has nexus with Missouri. The publisher delivers the newspaper by mail, which is the only way to obtain the newspaper in Missouri. The publisher does not have a place of business in Missouri. The publisher is the seller and must collect and remit use tax, including local use tax at the rate in effect where the newspaper is delivered. Tax is imposed on the entire sale price, including postage and handling charges.

(D) A retailer sells local and national publications. The retailer is the seller of the publications and must collect and remit sales tax, including local sales tax at the rate in effect at the retailer's place of business. The retailer may claim a resale exemption when purchasing the publications from the publishers.

(E) A publisher prints a daily newspaper and occasionally prints extra copies for free distribution to nonsubscribers. The publisher should not remit tax on the copies distributed for free and the supplies used to produce the newspaper are exempt.

(F) Publisher A prints and sells a newspaper to publisher B. Publisher B distributes the newspaper for free. Publisher A should collect and remit tax on its sales to publisher B.

(G) Same facts as (4)(F), except publisher B sells the newspaper. Publisher B must collect and remit tax on its sale of the newspaper, but may issue a resale exemption certificate and purchase the newspaper from publisher A exempt from tax.

(H) A publisher produces an advertising circular that it distributes for free. The publisher should pay tax on the machinery, equipment and supplies used to produce the circular.

(I) Same facts as (4)(H), except the publisher sells the circular. The publisher must collect and remit tax on its sales of the circular. The machinery and equipment used to produce, and the ingredients or component parts incorporated in, the circular are exempt from tax when purchased because the publisher is manufacturing a product sold at retail.

*AUTHORITY: sections 144.270 and 144.705. RSMo, 2000. Original rule filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Revenue fifteen thousand twenty-two dollars (\$15,022) with that cost recurring annually over the life of the rule.*

*PRIVATE COST: This proposed rule is estimated to cost private entities one hundred sixty-nine thousand seven hundred forty dollars (\$169,740) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC COST****I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-110.400 Newspapers and Other Publications
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance in the Aggregate
Missouri Department of Revenue	\$15,021.99

**III. WORKSHEET**

It costs the Department of Revenue \$2.25 to process a typical sales tax return. Based on an estimated returns filed by newspaper and other publication vendors in a given year, the costs to process are  $5,658 \times \$2.25 = \$12,730.50$ . The Department of Revenue's costs to print and mail returns to newspaper and other publication vendors are \$.405 per return. The calculation for these costs are  $5,658 \times \$.405 = \$2,291.49$ .

**IV. Assumptions**

The costs assume no postal discounts for mailing are realized. It also assumes an annual salary for a Tax Processing Technician of \$23,006.

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-110.400 Newspapers and Other Publications
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1,454	Vendors-Annual cost of \$30 per vendor to prepare and file a sales tax return.	\$169,740

**III. WORKSHEET**

The Department of Revenue receives approximately 5,658 returns per year from approximately 1,454 newspaper and other publication vendors. The estimated cost to prepare and file a return per business is \$30 per filed return. The cost to all newspaper and other publication vendors to comply is 5,658 X \$30= \$169,740.

**IV. ASSUMPTIONS**

The rule does not change existing practice. The department cannot determine the actual costs of preparing and filing a return. The department assumes for purposes of this fiscal note that it costs \$30 per return. This cost would be incurred as a result of section 144.020.1(2), RSMo, regardless of the contents of this rule. The department assumes every business makes at least one sale per reporting period.

The figure above is based on the assumption every business makes at least one sale per reporting period.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 114—Sales/Use Tax—Constitutional Issues**

**PROPOSED RULE**

**12 CSR 10-114.100 Determining When a Vendor has Sufficient Nexus for Use Tax**

*PURPOSE: Chapter 144, RSMo contains the statutory provisions governing application of use tax. The legal responsibility for paying use tax may fall upon either the vendor or the purchaser. The vendor must register with the department, and collect and remit use tax if it has sufficient nexus with the state. Unless the purchaser pays use tax to a vendor registered with the department to collect use tax, the purchaser must remit use tax to the state. This rule explains when a vendor must register with the department, and collect and remit use tax on sales to Missouri purchasers.*

(1) In general, an out-of-state vendor must register with the department, and collect and remit use tax when the vendor has sufficient nexus with Missouri. Sufficient nexus exists when the vendor has a physical presence in Missouri.

(2) Definition of Terms.

(A) Nexus—contact with the state.

(B) Physical presence—owning or leasing real or tangible personal property within this state; or having employees, agents, representatives, independent contractors, brokers or others that reside in, or regularly and systematically enter into, this state on behalf of the vendor.

(C) Vendor—a person who makes sales of tangible personal property for use, storage or consumption in the state. A person is not considered a vendor if:

1. The person's total gross receipts did not exceed five hundred thousand dollars (\$500,000) in this state, or \$12,500,000 in the entire United States, in the immediately preceding calendar year;
2. The person maintains no place of business in this state; and
3. The person has no selling agents in this state.

(3) Basic Application of Tax.

(A) A vendor with sufficient nexus with Missouri must collect and remit use tax on sales, rentals or leases of tangible personal property purchased for use, storage or consumption in Missouri if the transaction is not subject to Missouri sales tax. The vendor has sufficient nexus when the vendor has a physical presence in the state.

(B) A vendor does not have sufficient nexus if the only contact with the state is delivery of goods by common carrier or mail, advertising in the state through media, or occasionally attending trade shows at which no orders for goods are taken and no sales are made.

(C) Occasional deliveries into the state by the vendor's delivery vehicles with no other contacts do not constitute physical presence to establish sufficient nexus.

(D) Once sufficient nexus has been established, the vendor is liable for use tax on all sales of tangible personal property made in the state whether or not the sales activity related to the property or activity would be sufficient in and of itself to establish physical presence.

(E) Once nexus has been established, it will continue to exist for a reasonable period of time after the vendor no longer has a physical presence in the state. The department presumes that the vendor has nexus with the state for any sales to Missouri customers made during at least one (1) reporting period after the vendor no longer has physical presence in the state. A vendor registered with the department to collect tax will continue to have nexus until the vendor withdraws its registration.

(F) The fact that a vendor has sufficient nexus does not relieve the purchaser from liability for use tax. The liability for use tax is joint

and several for the vendor and purchaser. The purchaser is relieved from the liability for the tax if the purchaser pays a separately stated Missouri tax to a vendor who is registered with the department to collect the tax.

(G) A taxpayer must allow the department to review the taxpayer's records even if the taxpayer believes that it does not have nexus with the state.

(4) Examples.

(A) A taxpayer is located in Indiana. The taxpayer makes substantial sales into Missouri, which are delivered either by common carrier or U.S. mail. The taxpayer has no other contacts with the state. The taxpayer is not required to collect Missouri tax. Subsequently, the taxpayer acquires a warehouse in Missouri to store inventory for another part of its business. By acquiring the warehouse, the taxpayer has established a physical presence in the state and must collect tax on all sales to Missouri purchasers.

(B) An out-of-state company hires sales representatives to cover a five (5) state territory including Missouri. The sales representatives reside in Illinois but regularly travel to Missouri to solicit retail sales. The out-of-state company must collect tax on all sales to Missouri purchasers, regardless whether the sales representatives are employees or independent contractors.

(C) An out-of-state company that lacks sufficient nexus voluntarily registers to collect use tax. The company should collect and remit the appropriate tax to Missouri.

(D) An out-of-state taxpayer leases machinery to various customers in Missouri. The taxpayer also sells tools and supplies over the Internet to customers in Missouri. The taxpayer must collect use tax on all of its sales and leases in Missouri because its leased property located in Missouri creates sufficient nexus with the state.

(E) Same facts as (4)(D) above, except the taxpayer has received valid exemption certificates for the leases. The taxpayer must still collect use tax on its sales.

(F) An out-of-state company accepts an order from a Missouri customer. The out-of-state company orders the merchandise from a wholesaler in Missouri for drop shipment directly to the customer. The out-of-state company must collect sales tax on the transaction because its ownership of the tangible personal property in the state creates sufficient nexus.

*AUTHORITY: section 144.705, RSMo 2000. Original rule filed Dec. 1, 2004.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Revenue two hundred sixty-two thousand one hundred forty-seven dollars (\$262,147) with that cost recurring annually over the life of the rule.*

*PRIVATE COST: This proposed rule is estimated to cost private entities \$2,962,110 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-114.100 Determining When a Vendor has Sufficient Nexus for Use Tax
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance in the Aggregate
Missouri Department of Revenue	\$262,146

**III. WORKSHEET**

It costs the Department of Revenue \$2.25 to process a typical use tax return. Based on estimated returns filed by out of state vendors and in state purchasers in a given year, the costs to process are  $98,737 \times \$2.25 = \$222,158.25$ . The Department of Revenue's costs to print and mail returns to out of state vendors are \$.405 per return. The calculation for these costs are  $98,737 \times \$.405 = \$39,988.48$ .

**IV. Assumptions**

The costs assume no postal discounts for mailing are realized. It also assumes an annual salary for a Tax Processing Technician of \$23,006.

**FISCAL NOTE  
PRIVATE COST****I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-114.100 Determining When a Vendor has Sufficient Nexus for Use Tax
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
9,966	Out of state vendors- Annual cost of \$30 per vendor to prepare and file a use tax return.	\$1,803,390
12,524	In state purchasers- Annual cost of \$30 per purchaser to prepare and file a use tax return.	\$1,158,720

**III. WORKSHEET**

The Department of Revenue receives approximately 60,113 returns per year from approximately 9,966 out of state vendors. The estimated cost to prepare and file a return per business is \$30 per filed return. The cost to all out of state vendors to comply is  $60,113 \times \$30 = \$1,803,390$ .

The Department of Revenue receives approximately 52,154 returns per year from approximately 13,480 in state purchasers. The estimated cost to prepare and file a return per business is \$30 per filed return. The cost to all in state purchasers to comply is  $38,624 \times \$30 = \$1,158,720$ .

**IV. ASSUMPTIONS**

The rule does not change existing practice. The department cannot determine the actual costs of preparing and filing a return. The department assumes for purposes of this fiscal note that it costs \$30 annually. This cost would be incurred as a result of section 144.020.1(2), RSMo, regardless of the contents of this rule. The department assumes every business makes at least one sale per reporting period.

The figure above is based on the assumption every business makes at least one sale per reporting period.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 400—Individual Income Tax**

**PROPOSED RULE**

**12 CSR 10-400.250 Computation of an Individual's Missouri Adjusted Gross Income on a Combined Income Tax Return**

**PURPOSE:** *This rule explains how the combined Missouri adjusted gross income is computed on a combined return for purposes of computing each spouse's separate income tax liability.*

(1) In general, if a married couple files a combined Missouri income tax return, the combined Missouri adjusted gross income equals the sum of each spouse's separate Missouri adjusted gross income. The spouse's separate Missouri adjusted gross income equals the federal adjusted gross income reportable by the spouse had the spouse filed a separate federal return, as adjusted by the modifications under section 143.121, RSMo.

(2) Examples.

(A) A married couple reported federal adjusted gross income of thirty-two thousand dollars (\$32,000) on their joint federal income tax return. On their combined Missouri income tax return, one (1) spouse reported separate federal adjusted gross income of thirty-eight thousand dollars (\$38,000), and the other spouse reported separate federal adjusted gross income of negative six thousand dollars (\$6,000). The combined Missouri adjusted gross income equals thirty-two thousand dollars (\$32,000) (thirty-eight thousand dollars (\$38,000) plus negative six thousand dollars (\$6,000)).

(B) A married couple reported federal adjusted gross income of thirty-nine thousand dollars (\$39,000) on their joint federal income tax return. On their combined Missouri income tax return, one (1) spouse reported separate federal adjusted gross income of thirty-eight thousand dollars (\$38,000), and the other spouse reported separate federal adjusted gross income of one thousand dollars (\$1,000) and a five thousand dollar (\$5,000) subtraction for interest from exempt U.S. government obligations. The combined Missouri adjusted gross income equals thirty-four thousand dollars (\$34,000) (thirty-eight thousand dollars (\$38,000) plus negative four thousand dollars (\$4,000)).

(C) A married couple reported federal adjusted gross income of thirty-nine thousand dollars (\$39,000) on their joint federal income tax return. On their combined Missouri income tax return, one (1) spouse reported separate federal adjusted gross income of thirty-eight thousand dollars (\$38,000), and the other spouse reported separate federal adjusted gross income of one thousand dollars (\$1,000) and a five thousand dollar (\$5,000) subtraction for a contribution to a Missouri Savings for Tuition (MOST) account. The combined Missouri adjusted gross income equals thirty-eight thousand dollars (\$38,000) (thirty-eight thousand dollars (\$38,000) plus zero) because the MOST subtraction is limited to the spouse's Missouri adjusted gross income.

**AUTHORITY:** section 143.961, RSMo 2000. Original rule filed Dec. 1, 2004.

**PUBLIC COST:** *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be*

*received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS**  
**Division 20—Missouri Local Government Employees' Retirement System (LAGERS)**  
**Chapter 2—Administrative Rules**

**PROPOSED RULE**

**16 CSR 20-2.057 Qualified Government Excess Benefit Arrangement (QGEBA)**

**PURPOSE:** *This rule implements section 70.655, RSMo and section 415(m) of Title 26 of the United States Code and allows for the payment of benefits in excess of the limits imposed by section 415 of Title 26 of the United States Code to which retirees and beneficiaries are otherwise entitled pursuant to Chapter 70, RSMo.*

(1) Definitions.

(A) "Allowance" shall mean the total of a retiree's annuity and pension.

(B) "Annuity" shall mean a monthly amount derived from the accumulated contributions of a member and payable by the system throughout the life of one (1) or more persons or for a temporary period.

(C) "Pension" shall mean a monthly amount derived from contributions of an employer and payable by the system throughout the life of one (1) or more persons or for a temporary period.

(D) "Maximum benefit" shall mean the monthly allowance a retiree or beneficiary is entitled to receive from the retirement system, to the extent the pension component of such allowance does not exceed the annual benefit limit set forth in section 415 of Title 26 of the *United States Code*, as amended.

(E) "Retirement System" shall mean the Missouri Local Government Employees Retirement System established pursuant to Chapter 70, RSMo.

(F) "Section 415(m) benefit plan participant" shall mean any retiree or beneficiary whose pension otherwise payable pursuant to Chapter 70, RSMo, would exceed the maximum benefit permitted under section 415 of Title 26 of the *United States Code*, as amended. Eligibility as a section 415(m) benefit plan participant shall be determined by the retirement system at the time of retirement and annually thereafter.

(G) "Section 415(m) benefit plan" shall mean the separate, unfunded qualified government excess benefit arrangement within the meaning of section 415(m) of Title 26 of the *United States Code*, as amended, and established pursuant to administrative rule, and that is separate from the retirement system.

(H) "Unrestricted benefit" shall mean the monthly pension a retiree or beneficiary would have been entitled to receive without giving effect to the limits imposed by section 415 of Title 26 of the *United States Code*.

(2) A section 415(m) benefit plan participant receiving an allowance from the retirement system pursuant to Chapter 70, RSMo, is entitled to a monthly benefit under the section 415(m) benefit plan in an amount equal to the section 415(m) benefit plan participant's unrestricted benefit less the maximum benefit. In no event shall a retiree or beneficiary receive a total monthly allowance from the retirement system and the section 415(m) benefit plan in excess of the monthly allowance he or she would have been entitled to receive from the retirement system under Chapter 70, RSMo without giving effect to the limits imposed by section 415 of Title 26 of the *United States Code*.

(3) Any benefit to which a retiree or beneficiary is entitled pursuant to this rule shall be paid at the same time and in the same manner as the benefit would have been paid from the retirement system if the payment of the benefit from the retirement system had not been subject to the limits imposed by section 415 of Title 26 of the *United States Code*.

(4) Any other provision of law to the contrary notwithstanding, contributions may not be accumulated under the section 415(m) benefit plan to pay future monthly benefits to section 415(m) benefit plan participants. Instead, a portion of each payment of employer contributions made to the retirement system pursuant to the provisions of section 70.730, RSMo shall be paid to the section 415(m) benefit plan in an amount necessary to satisfy the retirement system's obligation to pay section 415(m) benefit plan participants the amount calculated pursuant to section (2), above, as those amounts become due and payable, as well as those amounts needed to pay reasonable expenses necessary to administer the section 415(m) benefit plan.

(5) The section 415(m) benefit plan is a separate component of the retirement system plan qualified pursuant to section 401(a) of Title 26 of the *United States Code* and is maintained solely for the purpose of funding and providing benefits to retirees and beneficiaries when the retirees' or beneficiaries' unrestricted benefits would otherwise exceed the limits imposed by section 415 of Title 26 of the *United States Code*.

(6) A member, retiree, or beneficiary of the retirement system may not directly or indirectly elect to defer payment of benefits or allowances payable pursuant to this rule.

(7) The section 415(m) benefit plan shall be administered in the same manner as the retirement system, pursuant to section 70.605, RSMo.

*AUTHORITY:* section 70.605.21, RSMo Supp. 2003. *Original rule filed Nov. 17, 2004.*

*PUBLIC COST:* *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST:* *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS:* *Any interested person or entity may submit written comments in support of or in opposition to the proposed rule. Comments should be directed to the Missouri Local Government Employees Retirement System (LAGERS), ATTN: Bill Ackerman, Chief Counsel, PO Box 1665, Jefferson City, MO 65102-1665. To be considered, comments must be received within thirty (30) days of publication of this notice in the Missouri Register. No public hearing is scheduled.*

**T**his section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 65—Endowed Care Cemeteries Chapter 1—Organization and Description

#### ORDER OF RULEMAKING

By the authority vested in the Division of Professional Registration under sections 214.280 and 214.392, RSMo Supp. 2003, the division withdraws a proposed rescission as follows:

##### **4 CSR 65-1.020 Cemetery Advisory Committee is withdrawn.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1161). The proposed rescission is withdrawn.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 65—Endowed Care Cemeteries Chapter 1—Organization and Description

#### ORDER OF RULEMAKING

By the authority vested in the Division of Professional Registration under sections 214.270 and 214.392, RSMo Supp. 2003, the division withdraws a proposed amendment as follows:

##### **4 CSR 65-1.030 Definitions is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1161). The proposed amendment is withdrawn.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 65—Endowed Care Cemeteries Chapter 1—Organization and Description

#### ORDER OF RULEMAKING

By the authority vested in the Division of Professional Registration under sections 214.392 and 620.010.15(6), RSMo Supp. 2003, the division withdraws a proposed amendment as follows:

##### **4 CSR 65-1.050 Complaint Handling and Disposition is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1161-1162). The proposed amendment is withdrawn.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 65—Endowed Care Cemeteries Chapter 2—General Rules

#### ORDER OF RULEMAKING

By the authority vested in the Division of Professional Registration under section 214.275, RSMo Supp. 2003, the division withdraws a proposed amendment as follows:

##### **4 CSR 65-2.010 Application for a License is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1162). The proposed amendment is withdrawn.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 90—State Board of Cosmetology Chapter 2—Cosmetology Schools

#### ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040, 329.050 and 329.210, RSMo Supp. 2003 and 329.120 and 329.230, RSMo 2000, the board amends a rule as follows:

##### **4 CSR 90-2.010 is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2004 (29 MoReg 1292-1298). Those sections with changes have been reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** Four (4) comments were received.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding paragraph

(2)(A)5. Mr. Nicholson requested clarification of when the list be submitted; when the school originally opens or each time a school renews their license, or each time the kit changes? If a school chooses to use community supplies as opposed to individual kits, how will this affect those particular schools? In general, the Missouri Association of Cosmetology Schools would support this regulation for schools that are not accredited, however, schools that are already accredited comply with this type of regulation. The National Accrediting Commission of Cosmetology Arts & Sciences (NACCAS) handbook of Standards and Criteria, Standard VIII, Criteria I states that "The school makes available to students textbooks, supplementary instructional materials, and equipment needed to fulfill program and course requirements." The association feels that a rule as specific as this one will greatly constrict the ways that accredited schools can deliver education to their students. Many schools use community supplies and then as a reward for completing the freshman program or even graduation, reward the student with their own individual kit. In some cases we have schools that do this at no charge.

**RESPONSE AND EXPLANATION OF CHANGE** On September 20, 2004 the board reviewed all comments received regarding the proposed amendment. The board voted to make changes referring to the time frame in which students shall receive textbooks and student kits.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding paragraph (2)(A)9. The association agrees with this proposed rule change for non-accredited schools. However, accredited schools are already held to strict guidelines and criteria about their curriculum and lesson planning by their accrediting body. If schools were forced to submit these lessons plans would it be a matter of simply submitting them or would they have to be approved. If they had to be approved, who would it be that was approving them? Would the board contract with someone that has at least a Master's degree in education to look over and approve these?

**RESPONSE:** On September 20, 2004 the board reviewed all comments received pertaining to the proposed amendment. The board determined that the basis for the comments made regarding school accountability appears to be self-serving on behalf of the accredited schools licensed in Missouri. Chapter 329, RSMo does not require cosmetology schools to be accredited by any accrediting agency; therefore, the board maintains that all schools licensed pursuant to Chapter 329, RSMo should be held to the same accountability.

**COMMENT:** Cheryl Barnett, Vice President, House of Heavilin Beauty Colleges submitted a comment concerning subparagraph (4)(A)5.E. Ms. Barnett stated that under "School Requirement," the amendment states that the school shall employ and have present a minimum of one (1) licensed instructor for every twenty-five (25) students enrolled and scheduled to be in attendance. Section 329.040, RSMo clearly specifies that schools of cosmetology employ and have present a licensed instructor for every twenty-five (25) students in attendance and one to ten (1-10) additional student may be in attendance with the assistant of an instructor trainee. Ms. Barnett requested the amendment be changed to conform to section 329.040, RSMo.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding subparagraph (4)(A)5.E. The association appreciates that the board is sensitive to the different needs of our educational institution in allowing this flexibility for our students. The association would prefer that the student ratio mentioned in this proposal be changed to twenty-five (25) students present to one (1) licensed instructor.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding paragraph (5)(C)1. The association disagrees with this rule. Lesson plans that are used in an educational institution for programs or for particular

classes may not be made by the instructor that is teaching that course. The school may have standardized lesson plans or even have a curriculum developer or director of education that is responsible for preparing the institution's lesson plans. Submitting one (1) lesson plan for one (1) class would not give anybody an accurate description of what type of curriculum is being delivered in that institution.

**RESPONSE:** On September 20, 2004 the board reviewed all comments received pertaining to the proposed amendment. The board determined that the basis for the comments made regarding school accountability appears to be self-serving on behalf of the accredited schools licensed in Missouri. Chapter 329, RSMo does not require cosmetology schools to be accredited by any accrediting agency; therefore, the board maintains that all schools licensed pursuant to Chapter 329, RSMo should be held to the same accountability.

**COMMENT:** Cheryl Barnett, Vice President, House of Heavilin Beauty Colleges submitted a comment concerning subsection (5)(E). Ms. Barnett stated that accredited cosmetology schools must already account for completion, licensure and placement rates to a nationally accrediting agency. These rates are reported on an annual basis to the accrediting agency, who in turn verifies the reported rates. Special low outcomes requirements are placed on schools not meeting the minimum required standards. The standards are set by the accrediting agency, National Accrediting Commission of Cosmetology Arts & Sciences (NACCAS), and are based on many years of data from hundreds of schools throughout the country. These accountability standards should apply only to those schools who are not accredited and therefore are not monitored by another agency or be eliminated entirely. It is Ms. Barnett's understanding that accountability requirements were to be set out because of changes in the law to allow for credit hours. If this is the case, then why not apply them to unaccredited, credit hour schools only? At the very least the required percentages should match those of the accrediting agency, sixty percent (60%) and not be for first time candidates only.

**COMMENT:** Gina Kinion, President, Elaine-Steven Beauty College submitted a comment regarding subsection (5)(E). Ms. Kinion requested to know who would be monitoring the pass/fail rate of schools for written and practical. She feels that the office should be monitoring this situation and not the entire board. If the entire board monitors the situation and it is handled in closed session, any school owners on the board could use this information (unfairly) as a marketing tool. If this situation is going to be handled by the board, then this should be done in open session for all to hear.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding subsection (5)(E). The association would support this regulation if it applied only to non-accredited schools. Accredited institutions are already required to meet certain benchmarks concerning pass/fail rates, placement rates, and completion rates. It is unclear in the proposed rule how this would be monitored, what the formula would be, who would have access to this information and what would be done with the information.

**RESPONSE:** On September 20, 2004 the board reviewed all comments received pertaining to the proposed amendment. The board determined that the basis for the comments made regarding school accountability appears to be self-serving on behalf of the accredited schools licensed in Missouri. Chapter 329, RSMo does not require cosmetology schools to be accredited by any accrediting agency; therefore, the board maintains that all schools licensed pursuant to Chapter 329, RSMo should be held to the same accountability.

**COMMENT:** Cheryl Barnett, Vice President, House of Heavilin Beauty Colleges submitted a comment concerning paragraph (7)(U)1. Ms. Barnett stated that the language should be clear that this means only the basic cosmetology textbook. Ms. Barnett stated that their school, and many other who use the Pivot Point System, issues a large number of books. Although the basic textbook is issued on the first day of school, other books that they choose to provide are

issued as that class session is scheduled. Certain other books are issued during the freshman classroom and others, such as "*Long Hair Design*" and "*People Skills*" are issued and training when the student is scheduled for the particular class.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding paragraph (7)(U)1. The association does support the fact that textbooks should not be copied, however, there are already copyright laws in place to prevent this from happening. There does not need to be a regulation added to the books to deal with this problem. The proposed regulation that states the students shall receive textbooks within forty-eight (48) hours of a start date the association disagrees with. Some schools give students textbooks at the appropriate time during their training. If a student were to start school on a Friday under this regulation, the school would have to issue the book to the student on a Sunday. The issue that a textbook has to be new is also a concern to the association. Public schools all across the United States issue textbooks over and over to students. The issuance of textbooks and how this is done will have no effect on the quality of education that a student receives.

**COMMENT:** Margaret Tingler, Owner, Paris II Educational Center submitted a comment regarding subparagraph (7)(U)1.A. Ms. Tingler stated that Paris II distributes new textbooks and several handouts on the first day of school to new students for all programs. Students are required to sign for the books to show receipt.

**RESPONSE AND EXPLANATION OF CHANGE:** The board concurred and made changes to the section (7).

**COMMENT:** Cheryl Barnett, Vice President, House of Heavilin Beauty Colleges submitted a comment concerning paragraph (7)(Z)2. Ms. Barnett presumes the amendment was intended to mean start date rather than enrollment date, since many students enroll several months before the start date. Ms. Barnett suggested that this portion of the amendment should be entirely omitted. Schools need to be able to choose whether to maintain all working equipment for students to use or whether to issue a kit. House of Heavilin Schools maintain all equipment for classrooms and clinic for cosmetology students to use and we issue the student a kit upon graduation. This has been very nice for the students because they graduate with a brand new kit ready for the state board examination, rather than with a kit needing replenishment due to lost or stolen items or heavy usage. In addition, our schools maintain a tidier appearance without kits sitting everywhere and the sanitary condition of the kits is not an issue. Ms. Barnett further stated they do not contractually charge the cosmetology student for a kit. They do issue kits to their manicuring students. That cost is reflected in the contract, and those kits are issued on the first day of training. Although Ms. Barnett would like to see this portion of the amendment eliminated entirely, she requested that the text of the rule refer to the contractual agreement between the student and the school to determine whether or not the school charges for a kit and if it does, when the contract states that it is to be issued to the student. Instead of requiring new schools to submit a list detailing all implements and equipment that will be issued in student kits, the board could require new and renewal schools to submit a list detailing all implements and equipment that will either be issued in student kits or available at the school for student use.

**COMMENT:** Gina Kinion, President, Elaine-Steven Beauty College submitted a comment regarding paragraph (7)(Z)2. Ms. Kinion stated some schools may not give a student a kit until they graduate and questioned whether the amendment was saying that schools are now required to give a kit. She didn't think the board should mandate when a school gives students their kits, as long as the school has sufficient supplies to provide everything a student needs without making the student purchase their own items.

**COMMENT:** Margaret Tingler, Owner, Paris II Educational Center submitted a comment regarding subparagraph (7)(U)1.A. Ms. Tingler stated as cosmetology students begin practicals they are required to sign out a school kit. The school kit contains all the

implements needed for their mannequin work. Thirty (30) days into the program the school kit is checked back in and the students are given brand new kits, complete with appliances, implements and equipment needed to work on clients. Paris II is an accredited school that participates in Title IV financial aid programs. Student loans may not be drawn down on students until they have been in school thirty (30) days. If the schools can no longer delay the delivery of the kits, the student's up front cost would increase. This policy allows students to use loan funds to cover kit costs and the school is not left hanging with the cost of the kit if the student does not complete thirty (30) days. In addition, the United States Department of Education's Return to Federal Funds (Refund) policy no longer addresses the institutional costs for books and kits. In many cases, refunds made to the Title IV programs are very large and very little is retained to cover tuition, books and kits. By waiting thirty (30) days to distribute cosmetology kits, students do not owe such a large balance to the school, because more Title IV aid is retainable and the school is not left hanging with the cost of the kit. The nail technicians and basic manicuring students are issued their kit after one (1) week. For the first week they are using school implements, products, equipment and supplies to practice manicures and pedicures on each other. At the beginning of the second week, they reach a point when they need the implements, products, equipment and supplies included in the kit. Esthetic students do not need a kit until they are ready to graduate. The practical and clinic floor is set up with all necessary equipment, supplies, implements and products that are needed to teach the students and for their practicals and clinicals. Under these circumstances, the students do not need a kit while in school. However, Paris II does provide a "State Board Kit" at the end of the program. This kit contains most of the products, implements and supplies necessary for each task assigned by the board.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding subparagraph (7)(U)1.A. The association would rather a student use a quality piece of used equipment over a cheap new piece of equipment. Whether equipment is used or new has no bearing on what type of education the student is receiving. The association feels that the issuance of kits within forty-eight (48) hours is an unreasonable request to place upon schools. How and when schools issue kits should be an internal school decision.

**RESPONSE AND EXPLANATION OF CHANGE:** On September 20, 2004 the board reviewed all comments received regarding the proposed amendment. The board voted to make changes referring to the time frame in which students shall receive textbooks and student kits.

**COMMENT:** Joseph A. Nicholson, President, Missouri Association of Cosmetology Schools submitted a comment regarding subsection (11)(A). The association feels that the primary responsibility of the state inspector should be sanitation.

**RESPONSE:** On September 20, 2004 the board reviewed all comments received. The board determined that the basis for the remainder of the comments made regarding school accountability appears to be self-serving on behalf of the accredited schools licensed in Missouri. Chapter 329, RSMo does not require cosmetology schools to be accredited by any accrediting agency; therefore, the board maintains that all schools licensed pursuant to Chapter 329, RSMo should be held to the same accountability.

#### **4 CSR 90-2.010 Schools**

##### **(4) School License.**

(A) Each license for a school of cosmetology issued by the board shall be valid only for the premises located at that address and board-approved ownership as provided in the initial application for the school. If at any time during the license period, the physical plant or operation of a school is moved to a new address, if ownership is transferred, or if substantial interest fifty-one percent (51%) or more

of a partnership or corporation is altered in a way as to affect the registered ownership, then the license for the school shall become void. It shall be the responsibility of the holder of the license of the school to notify the board of any changes.

1. If there is to be a change in a substantial interest of a partnership or corporation, which affects the registered ownership, the owner(s) shall make application in accordance with 4 CSR 90-2.010(2).

2. If there is to be a change in a minority interest of a partnership or corporation which does not affect the registered ownership, it shall be the responsibility of the holder(s) of the school license to submit a sworn affidavit to the board as notification of the change and to supply a full listing of partners/shareholders and ownership percentages of each.

3. If the physical plant or operation of a school is to be moved to a new address, it shall be the responsibility of the holder(s) of the school license prior to reopening at the new location to submit an application for change of location on a form supplied by the board accompanied by a floor plan of the new facility giving dimensions and square footage, the school's license and the duplicate license fee; have the new facility inspected and approved by the board; and have received the license from the board for the new facility.

4. If the name of a school is to be changed by the owner(s), the change may be made on the renewal application for the school or, if at any time during the license period, the owner(s) shall submit a change of name request on a form supplied by the board, accompanied by the school's license and the duplicate license fee.

##### 5. Satellite classrooms.

A. Purpose. Satellite classrooms may only be used for teaching purposes. Students are prohibited from providing services to or demonstrations on the public in a satellite classroom.

B. Eligibility. Any licensed school may apply for the addition of a satellite classroom.

C. Location. Satellite classrooms must be located within a one (1)-mile radius of the existing school.

##### D. Equipment and floor space.

(I) Satellite classrooms shall be equipped with at least one (1) restroom for student use.

(II) Satellite classrooms shall be equipped with a sufficient number of tables and chairs to accommodate the number of students in attendance in each class.

(III) Schools shall post a sign on the outside of each entrance into a satellite classroom, which reads, "Satellite Classroom for Students and Licensed Instructors Only."

(IV) Satellite classrooms shall have a minimum of five hundred (500) square feet for classroom instruction for up to twenty (20) students. For each additional student, satellite classrooms must have at least an additional fifty (50) square feet. Schools may not include the square footage of the satellite classroom to meet the minimum square footage requirements set forth in section 329.040, RSMo.

E. Instructors. In addition to the requirements set forth in 4 CSR 90-2.010(5)(C), there must be at least one (1) licensed instructor present in the satellite classroom any time students are present. If, at any time, twenty-six (26) or more students are in attendance in the satellite classroom, at least two (2) licensed instructors must be present in the satellite classroom.

F. Inspection. Satellite classrooms are subject to inspection in the same manner as the existing school. Schools are required to post the satellite classroom license in plain view within the satellite classroom at all times.

G. Application for licensure. If a satellite classroom is to be added, it shall be the responsibility of the holder(s) of the school license prior to opening the satellite classroom to submit an application for the addition of a satellite classroom on a form supplied by the board accompanied by a floor plan of the satellite classroom giving dimensions and square footage, and the satellite classroom application fee; have the satellite classroom inspected and approved by the

board; and have received the satellite classroom license from the board.

(7) Minimum Equipment and Training Supplies. All schools of cosmetology in Missouri shall have on hand and maintain in good working condition at all times the following equipment and training supplies:

(U) A reference library for students containing the following suggested materials: textbooks on the theory in cosmetology for each student, textbooks on shop management and buying, textbooks on psychology of salesmanship, a collegiate dictionary, a beauty culture dictionary, trade magazines and other materials as deemed necessary and reasonable by the State Board of Cosmetology.

1. Textbooks, if necessary for coursework, for each student. Textbooks provided must be new; photocopies are not acceptable.

A. Students shall receive primary textbooks within forty-eight (48) hours of start date;

(Z) Individual student kit materials for each student enrolled which shall include thermal equipment and other equipment as deemed necessary and reasonable by the State Board of Cosmetology.

1. All implements and equipment contained in the student kits must be new.

2. Students shall receive student kits prior to the completion of their training.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 90—State Board of Cosmetology Chapter 2—Cosmetology Schools

#### ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040 and 329.210, RSMo Supp. 2003 and 329.120, 329.230 and 329.250 RSMo 2000, the board amends a rule as follows:

4 CSR 90-2.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2004 (29 MoReg 1299). The section with changes has been reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

#### SUMMARY OF COMMENTS: One (1) comment was received.

COMMENT: Margaret Tingler, Owner, Paris II Educational Center submitted a comment regarding paragraph (3)(P)1. Ms. Tingler stated the nail technicians and basic manicuring students are issued their kit after one (1) week. For the first week they are using school implements, products, equipment and supplies to practice manicures and pedicures on each other. At the beginning of the second week, they reach a point when they need the implements, products, equipment and supplies included in the kit.

RESPONSE AND EXPLANATION OF CHANGE: On September 20, 2004 the board reviewed all comments received pertaining to the proposed amendment. The board voted to make the above changes referring to the time frame in which students shall receive textbooks and student kits.

#### 4 CSR 90-2.020 Manicuring Schools

(3) Minimum equipment and training supplies for manicuring schools shall be—

(P) A reference library for students containing the following suggested materials: textbooks on theory in manicuring for each student,

textbooks on shop management and buying, textbooks on psychology of salesmanship, a collegiate dictionary, a beauty culture dictionary, trade magazines and other materials as deemed necessary and reasonable by the board. Textbooks, if necessary for coursework, for each student. Textbooks provided must be new, photocopies are not acceptable.

1. Students shall receive primary textbooks within forty-eight (48) hours of enrollment;

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 90—State Board of Cosmetology**  
**Chapter 2—Cosmetology Schools**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Cosmetology under sections 329.040, 329.050 and 329.210, RSMo Supp. 2003 and 329.120 and 329.230, RSMo 2000, the board amends a rule as follows:

4 CSR 90-2.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2004 (29 MoReg 1299). The section with changes has been reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** One (1) comment was received.

**COMMENT:** Margaret Tingler, Owner, Paris II Educational Center submitted a comment regarding subsection (4)(N). Ms. Tingler stated esthetic students do not need a kit until they are ready to graduate. The practical and clinic floor is set up with all necessary equipment, supplies, implements and products that are needed to teach the students and for their practicals and clinicals. Under these circumstances, the students do not need a kit while in school. However, Paris II does provide a "State Board Kit" at the end of the program. This kit contains most of the products, implements and supplies necessary for each task assigned by the board.

**RESPONSE AND EXPLANATION OF CHANGE:** On September 20, 2004 the board reviewed all comments received pertaining to the proposed amendment. The board voted to make the above changes referring to the time frame in which students shall receive textbooks and student kits.

**4 CSR 90-2.030 Esthetic Schools**

(4) Minimum Equipment and Training Supplies. Esthetic schools in Missouri shall have on hand and maintain in good working condition at all times the following equipment and training supplies:

(N) A reference library for students as provided in 4 CSR 90-2.010(7) in addition to textbooks on theory in esthetics. Textbooks, if necessary for coursework, for each student. Textbooks provided must be new; photocopies are not acceptable.

1. Students shall receive primary textbooks within forty-eight (48) hours of start date;

(V) Individual student kit materials for each student enrolled which shall include the following materials: skin cleanser, skin freshener, moisturizer, foundation (light, medium and dark), concealer (light, medium and dark), blusher (light, medium and dark), eye liner pencil, liquid or cream mascara, wedge sponges, powder brush, contour brush, applicators, plastic spatulas, and esthetic textbook. All student kits shall be kept clean and remain free of unsterilized items and tools.

1. All implements and materials contained in the student kits must be new.

2. Students shall receive student kits prior to the completion of their training.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 90—State Board of Cosmetology**  
**Chapter 4—Cosmetology Establishments**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Cosmetology under sections 329.010 and 329.210, RSMo Supp. 2003 and 329.045 and 329.230, RSMo 2000, the board amends a rule as follows:

**4 CSR 90-4.010 Cosmetology Establishments is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2004 (29 MoReg 1299-1302). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 90—State Board of Cosmetology**  
**Chapter 13—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Cosmetology under sections 329.010, RSMo Supp. 2003 and 329.210, RSMo 2000, the board amends a rule as follows:

**4 CSR 90-13.010 Fees is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2004 (29 MoReg 1303). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 110—Missouri Dental Board**  
**Chapter 2—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Dental Board under sections 332.031, RSMo 2000 and 332.171.2, RSMo Supp. 2003, board adopts a rule as follows:

**4 CSR 110-2.085 Definitions of Dental Specialties is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1162-1163). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** Three (3) comments were received by the board but were combined into one statement.

**COMMENT:** The commenters fully support the Missouri Dental Board's efforts to examine *Missouri Code of State Regulations* concerning the scope of practice of dentistry and perhaps revise the *Code* according to current dental standards of education and training. However, the commenters believe that the board is seeking to expand the scope of practice of oral and maxillofacial surgery by rule and in their view the language is incongruent with their training and actual practice.

**RESPONSE:** The board agrees that it has the statutory duty and authority to promulgate rules relating to dental specialty certification and licensure. Pursuant to section 332.171.2, RSMo, the board is required to issue a specialist's certificate to any registered and current licensed dentist in Missouri who has been certified in any specialty by an American board recognized by the American Dental Association. This section further provides that dentists may seek specialty licensure "for certification in one of the special areas approved by the American Dental Association for specialty practice." Oral and maxillofacial surgery is one (1) of nine (9) specialty practices currently approved by the American Dental Association. The board disagrees that it is expanding the scope of practice of oral and maxillofacial surgeons by this rule. The rule simply defines all the dental specialties, including oral and maxillofacial surgery, that are approved by the American Dental Association. The definition of oral and maxillofacial surgery in the rule is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region. Section 332.071, RSMo, defines dentistry to include dental operations or oral surgery, by any means or methods and diagnosing, prescribing and treating any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures and diseases or disorders or lesions of the oral regions. The definitions of dental specialties in the rule are the same as has been adopted by the American Dental Association and do not expand the scope of practice as defined in section 332.071, RSMo. The board made no changes to the text of the rule based on the comment.

**COMMENT:** The major concern in the commenter's statement appears to be the education and training of oral and maxillofacial surgeons. They believe that allowing persons without medical training, specifically single degree dentists, to perform surgical procedures on areas unrelated to a patient's oral and dental health exposes patients to undue risk and potential physical harm. Comparisons are made of the education and training of otolaryngologists and plastic surgeons to that of oral and maxillofacial surgeons.

**RESPONSE:** The board's rule does not address the education and training of the specialty practices although section 332.171.2, RSMo clearly provides the board with authority to establish by rule the minimum requirements for specialty certification. The board's existing rule, 4 CSR 110-2.090, on Certification of Dental Specialists sets out the requirements and procedures an applicant must fulfill prior to being certified as a dental specialist but it does not provide an explanation of what the specialties do. That is the purpose of this rule. Neither the authorizing statute nor the board's rules allow dentists to perform surgical procedures on areas unrelated to the practice of dentistry. But to address the concern regarding the education and training of oral and maxillofacial surgeons, the board has done research on the issue and disagrees that there is a substantive educational gap that exists between dentistry, specific to the practice of oral and maxillofacial surgeons, and the practice of surgery by physicians. Oral and maxillofacial surgeons must complete a minimum of four (4) years of dental school and earn a DDS or DMD degree and a minimum of four to seven (4-7) years of surgical training in a hospital-based residency program. Oral and maxillofacial surgeons receive rigorous medical and surgical training in the one hundred one (101)

accredited residency training programs in the United States. Many of the oral and maxillofacial surgeons in these advanced residency training programs also complete additional medical education to obtain an MD degree as part of an integrated oral and maxillofacial surgery residency program currently offered in forty-three (43) oral and maxillofacial residency training programs. Regardless of whether an oral and maxillofacial surgeon completes a residency training program as a single degreed or dual (dental/medical) degreed oral and maxillofacial surgeon, each oral and maxillofacial surgeon must complete similar requirements outlined in the Standards for Advanced Specialty Education Programs in Oral and Maxillofacial Surgery for a minimum of four (4) years of hospital-based surgical training in an accredited residency program. The medical education of oral and maxillofacial surgeons is completed in United States accredited medical schools and rotations are in accredited medical and surgical services. Residency programs must meet the same standards as any other residency program, requiring a minimum number of surgical procedures that fall within five (5) major categories of maxillofacial surgery, including trauma, maxillofacial and craniofacial procedures, temporomandibular joint procedures, surgery for pathologic conditions, cleft and reconstructive and cosmetic procedures, and placement of dental and craniofacial implants. The board made no changes to the text of the rule based on the comment.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 245—Real Estate Appraisers**  
**Chapter 4—Certificate and Licenses**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 339.503, 339.509 and 339.521, RSMo 2000, the commission amends a rule as follows:

**4 CSR 245-4.060 Temporary Nonresident Certificate  
or License is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1170-1172). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 245—Real Estate Appraisers**  
**Chapter 5—Fees**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 339.509, 339.513 and 339.525.5, RSMo 2000, the commission amends a rule as follows:

**4 CSR 245-5.020 Application, Certificate and License Fees is  
amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1173-1174). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 245—Real Estate Appraisers**  
**Chapter 5—Fees**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under sections 339.509, RSMo 2000 and 610.026, RSMo Supp. 2003, the commission rescinds a rule as follows:

**4 CSR 245-5.030 Miscellaneous Fees is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1175). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**  
**Division 245—Real Estate Appraisers**  
**Chapter 9—Competency and Scope of Practice  
Standards**

**ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under section 339.509(5), RSMo 2000, the commission adopts a rule as follows:

**4 CSR 245-9.010 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1175). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** One (1) comment was received.

**COMMENT:** Terry Sampson, Director, Right-of-Way Division of the Missouri Department of Transportation (MoDOT) submitted a comment. The department is concerned that section (3) which mandates co-signatures on certain types of appraisals issued by state certified residential real estate appraisers and state-licensed real estate appraisers, appears to be regulated beyond what is necessary or appropriate to meet the standards specified by the Appraisal Standards Board (ASB). The ASB has no standard requiring a state-certified general or other real estate appraiser to co-sign any appraisals done by other state-certified or state-licensed appraisers. It is a voluntary option for an appraiser who determines s/he is not competent alone to complete the appraisal assignment, but it is not mandated in every such appraisal. Also, the provisions limiting state-licensed real estate appraisers to only appraise a one-unit residential tract without a certified co-signer, has no supporting basis in the ASB standards or Missouri law, section 339.503(19), RSMo which both consistently refer to residential real estate as “containing not more than four (4) dwelling units.” Nothing authorizes the commission to further restrict a licensed appraiser’s authority to adopt section (3) as part of the proposed rule. Furthermore, if we assume that the new section (3) is valid it needs clarification. It is not clear whether a state-certified

residential real estate appraiser who is conducting twenty (20) different appraisals of twenty (20) real estate tracts, each of which have only one to four (1-4) units, requires a state-certified general to co-sign. Likewise, if the same residential appraiser is appraising a residential structure which has been converted by its current owner into a business, but in all other respects is residential property, does the residential appraiser have to have a general appraiser co-sign the appraisal. For the MoDOT this is particularly important with regard to our statutory exemption from the requirement that their appraisal employees be licensed in section 339.501.5(3), RSMo. If one of their state-certified residential real estate appraiser employees does a value appraisal for MoDOT under federal standards of a small farm with a home on it, must the appraisal be co-signed by a state-certified general real estate appraiser, even though such a co-signature is not needed for state or federal property acquisition purposes? The proposed regulation speaks only of dual signatures. If it is going to be adopted at all, we suggest that this text be revised to authorize either dual signatures or its review by a state-certified general real estate appraiser, prior to its use. Review certification should be just as valid as a dual signature process.

**RESPONSE AND EXPLANATION OF CHANGE:** The committee concurred and made changes to the text of the rule.

**4 CSR 245-9.010 Competency and Scope of Practice Standards**

**PURPOSE:** *This rule sets the scope of practice standards for the development and communication of real estate appraisals by state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed real estate appraisers.*

(3) Notwithstanding the requirements and allowances of sections (1) and (2) of this rule, state-certified and state-licensed real estate appraisers shall limit their practice to the development and communication of real estate appraisals as follows:

(B) State-certified residential real estate appraisers may perform appraisals on residential real estate of one to four (1-4) residential units without regard to transaction value or complexity and may perform appraisal consulting in the area of residential real estate, if, and only if, performed in compliance with all state and federal laws, rules and regulations pertaining to the appraisal assignment. This designation permits the appraisal of vacant or unimproved land that may be utilized for one to four (1-4) family purposes. This certification does not permit the appraisal of subdivisions or of agricultural real estate. Individual parcels of property located within a residential subdivision shall be considered residential real estate. For all other appraisals, the appraisal report shall be signed by the state-certified residential real estate appraiser and a state-certified general real estate appraiser. For the purposes of this rule, “agricultural real estate” shall be defined as improved or unimproved land with a highest and best use and primary purpose devoted to income production by crops, livestock and other products of the soil (fruit, pasture, timberland, etc).

(4) A state-licensed or state-certified real estate appraiser shall be exempt from the provisions of section (3) of this rule if providing valuation services in a setting for which licensure or certification would not be required under section 339.501.5, RSMo. In all other instances, a real estate appraiser must comply fully with sections (1), (2) and (3) of this rule. Sections (1), (2) and (3) shall not be interpreted so as to except a real estate appraiser from compliance with the other sections.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 10—Air Conservation Commission**  
**Chapter 6—Air Quality Standards, Definitions, Sampling  
and Reference Methods and Air Pollution Control  
Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.061 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 2004 (29 MoReg 1193-1196). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received verbal comments from Mississippi Lime Company speaking on behalf of Mississippi Lime Company, Regulatory Environmental Group For Missouri (REFORM) and the St. Louis Regional Chamber Growth Association (RCGA) and written comments from The Boeing Company and the U.S. Environmental Protection Agency (EPA). The comments focused on support, language clarity, additions and changes.

**COMMENT:** The Boeing Company commented that the language proposed in paragraph (3)(A)3. allows for multiple pollutants to be exempt and still be over the threshold. This is probably not what was intended.

**RESPONSE AND EXPLANATION OF CHANGE:** As a result of this comment, paragraph (3)(A)3. has been reworded to clarify the intention of this new requirement.

**COMMENT:** The EPA commented that the proposed language—Operations such as—in subparagraph (3)(A)2.DD. is open ended and should be deleted because it lacks sufficient specificity to clearly determine which operations are covered by the exemption.

**RESPONSE AND EXPLANATION OF CHANGE:** As a result of this comment, subparagraph (3)(A)2.DD. has been changed to clearly specify which operations are exempt.

**COMMENT:** The EPA commented that subparagraph (3)(A)2.DD. should contain provisions applicable to any materials which could contain asbestos, beryllium or lead and describe how the source owner must measure to determine content.

**RESPONSE AND EXPLANATION OF CHANGE:** As a result of this comment, additional language has been added to subparagraph (3)(A)2.DD. to require material content determination based on review of Material Safety Data Sheets (MSDS), vendor material specifications and purchase order specifications.

Due to similar concerns addressed in the following two (2) comments, one (1) response that addresses these concerns can be found at the end of these two (2) comments.

**COMMENT:** The EPA commented on the reporting and record keeping requirements and pointed out that exemptions based on actual emissions are extremely difficult to monitor because of factors such as variability in emissions over time. Therefore, potential emissions are a better measure for applicability purposes, and they would generally not approve applicability limits based on actual emissions.

**COMMENT:** The Boeing Company commented that the proposed four (4)-ton volatile organic compound (VOC) threshold in subparagraph (3)(A)3.D. requires maintaining records in sufficient detail which is largely redundant in light of the Emissions Inventory Questionnaire (EIQ) requirement to report non-hazardous air pollutant VOC emissions from any emission unit with actual emissions greater than two hundred (200) lbs/year. For Title V permitted facilities, the proposed requirement to maintain records in sufficient detail to show compliance could be read to create an additional mon-

itoring requirement on otherwise insignificant emission units in the operating permit.

**RESPONSE AND EXPLANATION OF CHANGE:** To address these comments, the department's Air Pollution Control Program has created a new subparagraph (3)(A)3.E. This new subparagraph contains language specific to reporting and record keeping with respect to emissions documentation and EIQ, MSDS, vendor and product purchase specifications. Activities that emit less than four (4) tons per year are by definition insignificant activities and, therefore, the operating permit rule does not apply to these emission units.

**COMMENT:** The EPA commented that if the state chooses to retain the actual emissions level, the rule should contain specific and detailed requirements for determining actual emissions, or should require that the source establish a specific plan, subject to approval by the state, showing how it will determine actual emissions. These requirements should apply to VOC emissions and to other regulated pollutants. The source should then be required to meet the operating parameters specified in the rule or in the plan on a continuous basis. In addition, the rule should specify the consequences of exceeding the emissions levels as specified in the rule. At a minimum, this should include a requirement to apply for a construction permit for the source within a specified time frame, in addition to penalties for violation of the limits.

**RESPONSE AND EXPLANATION OF CHANGE:** Language has been added in paragraph (3)(A)3. to require sources to keep records showing actual emissions are below the exemption thresholds. In an effort to address the specific and detailed requirement comment, the language refers to the EIQ emission calculation hierarchy as detailed in 10 CSR 10-6.110(3)(E). Typically, individual rules do not stipulate penalties. State rule 10 CSR 10-6.230 provides for administrative penalty mechanisms for violations and state statute 643.151.3. provides penalty assessments.

**COMMENT:** The EPA commented that section (4) should not be shown as not applicable because record keeping is required in previous sections of the rule.

**RESPONSE AND EXPLANATION OF CHANGE:** As a result of this comment the words—not applicable—have been removed from section (4).

**COMMENT:** The EPA commented that Missouri will need to submit a substantial analysis showing that the revisions will not interfere with attainment and maintenance of the National Ambient Air Quality Standards to determine state implementation plan (SIP) approvability.

**RESPONSE:** This rule was developed using a stakeholder process and the issue of whether these exemptions would cause air quality problems was discussed. The stakeholders concluded that these exemptions will not substantially impact air quality. In addition, staff prepared an analysis of this issue and this analysis will be submitted to the EPA as part of the request to include this revision as part of the SIP. It should also be noted that this rule only exempts sources from minor or *de minimis* permits. No wording changes have been made as a result of these comments.

**COMMENT:** Mississippi Lime Company's commenter provided direct and full support for this rulemaking on behalf of REFORM, RCGA and Mississippi Lime Company.

**COMMENT:** The Boeing Company commented in writing that they conceptually support this rule action and specifically supported the exemption for certain machining operations.

**RESPONSE:** The department's Air Pollution Control Program appreciates this support. No wording changes have been made as a result of these comments.

## 10 CSR 10-6.061 Construction Permit Exemptions

(3) General Provisions. The following construction or modifications are not required to obtain a permit under 10 CSR 10-6.060:

(A) Exempt Emission Units.

1. The following combustion equipment is exempt from 10 CSR 10-6.060 if the equipment emits only combustion products, and the equipment produces less than one hundred fifty (150) pounds per day of any air contaminant:

A. Any combustion equipment using exclusively natural gas or liquefied petroleum gas or any combination of these with a capacity of less than ten (10) million British thermal units (Btus) per hour heat input;

B. Any combustion equipment with a capacity of less than one (1) million Btus per hour heat input;

C. Drying or heat treating ovens with less than ten (10) million Btus per hour capacity provided the oven does not emit pollutants other than the combustion products and the oven is fired exclusively by natural gas, liquefied petroleum gas, or any combination thereof; and

D. Any oven with a total production of yeast leavened bakery products of less than ten thousand (10,000) pounds per operating day heated either electrically or exclusively by natural gas firing with a maximum capacity of less than ten (10) million Btus per hour.

2. The following establishments, systems, equipment and operations are exempt from 10 CSR 10-6.060:

A. Office and commercial buildings, where emissions result solely from space heating by natural or liquefied petroleum gas of less than twenty (20) million Btus per hour heat input. Incinerators operated in conjunction with these sources are not exempt unless the incinerator operations are exempt under another section of this rule;

B. Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment;

C. Equipment used for any mode of transportation;

D. Livestock markets and livestock operations, including animal feeding operations and concentrated animal feeding operations as those terms are defined by 40 CFR 122.23 and all manure storage and application systems associated with livestock markets or livestock operations, that were constructed on or before November 30, 2003. This exemption includes any change, installation, construction or reconstruction of a process, process equipment, emission unit, or air cleaning device after November 30, 2003, unless such change, installation, construction or reconstruction involves an increase in the operation's capacity to house or grow animals.

E. Any grain handling, storage and drying facility which—

(I) Is in noncommercial use only (used only to handle, dry or store grain produced by the owner if)—

(a) The total storage capacity does not exceed seven hundred fifty thousand (750,000) bushels;

(b) The grain handling capacity does not exceed four thousand (4,000) bushels per hour; and

(c) The facility is located at least five hundred feet (500') from any recreational area, residence or business not occupied or used solely by the owner;

(II) Is in commercial use and the total storage capacity of the new and any existing facility(ies) does not exceed one hundred ninety thousand (190,000) bushels; or

(III) The installation of additional grain storage capacity in which there is no increase in hourly grain handling capacity and existing grain receiving and loadout equipment are utilized;

F. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

G. Any wet sand and gravel production facility that obtains its material from subterranean and subaqueous beds where the deposits of sand and gravel are consolidated granular materials resulting from natural disintegration of rock and stone and whose maximum production rate is less than five hundred (500) tons per hour. All per-

manent in-plant roads shall be paved and cleaned, or watered, or properly treated with dust-suppressant chemicals as necessary to achieve good engineering control of dust emissions. Only natural gas shall be used as a fuel when drying;

H. Equipment solely installed for the purpose of controlling fugitive dust;

I. Equipment or control equipment which eliminates all emissions to the ambient air;

J. Equipment, including air pollution control equipment, but not including an anaerobic lagoon, that emits odors but no regulated air pollutants;

K. Residential wood heaters, cookstoves or fireplaces;

L. Laboratory equipment used exclusively for chemical and physical analysis or experimentation, except equipment used for controlling radioactive air contaminants;

M. Recreational fireplaces;

N. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption;

O. Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized as authorized in section 269.020.6, RSMo 2000;

P. The following miscellaneous activities:

(I) Use of office equipment and products, not including printing establishments or businesses primarily involved in photographic reproduction. This exemption is solely for office equipment that is not part of the manufacturing or production process at the installation;

(II) Tobacco smoking rooms and areas;

(III) Hand-held applicator equipment for hot melt adhesives with no volatile organic compound (VOC) in the adhesive formula;

(IV) Paper trimmers and binders;

(V) Blacksmith forges, drop hammers, and hydraulic presses;

(VI) Hydraulic and hydrostatic testing equipment; and

(VII) Environmental chambers, shock chambers, humidity chambers, and solar simulators provided no hazardous air pollutants are emitted by the process;

Q. The following internal combustion engines:

(I) Portable electrical generators that can be moved by hand without the assistance of any motorized or non-motorized vehicle, conveyance or device;

(II) Spark ignition or diesel fired internal combustion engines used in conjunction with pumps, compressors, pile drivers, welding, cranes, and wood chippers or internal combustion engines or gas turbines of less than two hundred fifty (250) horsepower rating; and

(III) Laboratory engines used in research, testing, or teaching;

R. The following quarries, mineral processing, and biomass facilities:

(I) Drilling or blasting activities;

(II) Concrete or aggregate product mixers or pug mills with a maximum rated capacity of less than fifteen (15) cubic yards per hour;

(III) Riprap production processes consisting only of a grizzly feeder, conveyors, and storage, not including additional hauling activities associated with riprap production;

(IV) Sources at biomass recycling, composting, landfill, publicly owned treatment works (POTW), or related facilities specializing in the operation of, but not limited to tub grinders powered by a motor with a maximum output rating of ten (10) horsepower, hoggers and shredders and similar equipment powered by a motor with a maximum output rating of twenty-five (25) horsepower, and

other sources at such facilities with a total throughput less than five hundred (500) tons per year; and

(V) Landfarming of soils contaminated only with petroleum fuel products where the farming beds are located a minimum of three hundred feet (300') from the property boundary;

S. The following kilns and ovens:

(I) Kilns with a firing capacity of less than ten (10) million Btus per hour used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity, or any combination thereof; and

(II) Electric ovens or kilns used exclusively for curing or heat-treating provided no hazardous air pollutants (HAPs) or VOCs are emitted;

T. The following food and agricultural equipment:

(I) Any equipment used in agricultural operations to grow crops;

(II) Equipment used exclusively to slaughter animals. This exemption does not apply to other slaughterhouse equipment such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

(III) Commercial smokehouses or barbecue units in which the maximum horizontal inside cross-sectional area does not exceed twenty (20) square feet;

(IV) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices or coffee;

(V) Equipment with the potential to dry, mill, blend, grind, or package less than one thousand (1,000) pounds per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch;

(VI) Equipment with the potential to convey, transfer, clean, or separate less than one thousand (1,000) tons per year of dry food products or waste from food production operations;

(VII) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere or which have the potential to handle less than one thousand (1,000) tons per year;

(VIII) Coffee, cocoa, and nut roasters with a roasting capacity of less than fifteen (15) pounds of beans or nuts per hour, and any stoners or coolers operated with these roasters;

(IX) Containers, reservoirs, tanks, or loading equipment used exclusively for the storage or loading of beer, wine, or other alcoholic beverages produced for human consumption;

(X) Brewing operations at facilities with the potential to produce less than three (3) million gallons of beer per year; and

(XI) Fruit sulfuring operations at facilities with the potential to produce less than ten (10) tons per year of sulfured fruits and vegetables;

U. Batch solvent recycling equipment provided the recovered solvent is used primarily on-site, the maximum heat input is less than one (1) million Btus per hour, the batch capacity is less than one hundred fifty (150) gallons, and there are no solvent vapor leaks from the equipment which exceed five hundred (500) parts per million;

V. The following surface coating and printing operations:

(I) Batch mixing of inks, coatings, or paints provided good housekeeping is practiced, spills are cleaned up as soon as possible, equipment is maintained according to manufacturer's instruction and property is kept clean. In addition, all waste inks, coating, and paints shall be disposed of properly. Prior to disposal all liquid waste shall be stored in covered container. This exemption does not apply to ink, coatings, or paint manufacturing facilities;

(II) Any powder coating operation, or radiation cured coating operation where ultraviolet or electron beam energy is used to initiate a reaction to form a polymer network;

(III) Any surface-coating source that employs solely non-refillable handheld aerosol cans; and

(IV) Surface coating operations utilizing powder coating materials with the powder applied by an electrostatic powder spray gun or an electrostatic fluidized bed;

W. The following metal working and handling equipment:

(I) Carbon dioxide (CO<sub>2</sub>) lasers, used only on metals and other materials that do not emit a HAP or VOC in the process;

(II) Laser trimmers equipped with dust collection attachments;

(III) Equipment used for pressing or storing sawdust, wood chips, or wood shavings;

(IV) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form provided the solution contains less than one percent (1%) VOC by weight;

(V) Tumblers used for cleaning or deburring metal products without abrasive blasting;

(VI) Batch mixers with a rated capacity of fifty-five (55) gallons or less provided the process will not emit hazardous air pollutants;

(VII) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives provided the process will not emit hazardous air pollutants;

(VIII) Equipment used exclusively for the packaging of lubricants or greases;

(IX) Platen presses used for laminating provided the process will not emit hazardous air pollutants;

(X) Roll mills or calendars for rubber or plastics provided the process will not emit hazardous air pollutants;

(XI) Equipment used exclusively for the melting and applying of wax containing less than one percent (1%) VOC by weight;

(XII) Equipment used exclusively for the conveying and storing of plastic pellets; and

(XIII) Solid waste transfer stations that receive or load out less than fifty (50) tons per day of nonhazardous solid waste;

X. The following liquid storage and loading equipment:

(I) Storage tanks and vessels having a capacity of less than five hundred (500) gallons; and

(II) Tanks, vessels, and pumping equipment used exclusively for the storage and dispensing of any aqueous solution which contains less than one percent (1%) by weight of organic compounds. Tanks and vessels storing the following materials are not exempt:

(a) Sulfuric or phosphoric acid with an acid strength of more than ninety-nine percent (99.0%) by weight;

(b) Nitric acid with an acid strength of more than seventy percent (70.0%) by weight;

(c) Hydrochloric or hydrofluoric acid with an acid strength of more than thirty percent (30.0%) by weight; or

(d) More than one liquid phase, where the top phase contains more than one percent (1%) VOC by weight;

Y. The following chemical processing equipment or operations:

(I) Storage tanks, reservoirs, pumping, and handling equipment, and mixing and packaging equipment containing or processing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized; and

(II) Batch loading and unloading of solid phase catalysts;

Z. Body repair and refinishing of motorcycle, passenger car, van, light truck and heavy truck and other vehicle body parts, bodies, and cabs, provided—

(I) Good housekeeping is practiced; spills are cleaned up as soon as possible, equipment is maintained according to manufacturers' instructions, and property is kept clean. In addition, all waste coatings, solvents, and spent automotive fluids including, but not limited to, fuels, engine oil, gear oil, transmission fluid, brake fluid, antifreeze, fresh or waste fuels, and spray booth filters or water wash sludge are disposed of properly. Prior to disposal, all liquid waste shall be stored in covered containers. All solvents and cleaning materials shall be stored in closed containers;

(II) All spray coating operations shall be performed in a totally enclosed filtered spray booth or totally enclosed filtered spray area with an air intake area of less than one hundred (100) square feet. All spray areas shall be equipped with a fan which shall be operated during spraying, and the exhaust air shall either be vented through a stack to the atmosphere or the air shall be recirculated back

into the shop through a carbon adsorption system. All carbon adsorption systems shall be properly maintained according to the manufacturer's operating instructions, and the carbon shall be replaced at the manufacturer's recommended intervals to minimize solvent emissions; and

(III) Spray booth, spray area, and preparation area stacks shall be located at least eighty feet (80') away from any residence, recreation area, church, school, child care facility, or medical or dental facility;

AA. Sawmills processing no more than twenty-five (25) million board feet, green lumber tally of wood per year, in which no mechanical drying of lumber is performed, in which fine particle emissions are controlled through the use of properly engineered baghouses or cyclones, and which meet all of the following provisions:

(I) The mill shall be located at least five hundred feet (500') from any recreational area, school, residence, or other structure not occupied or used solely by the owner of the facility or the owner of the property upon which the installation is located;

(II) All sawmill residues (sawdust, shavings, chips, bark) from debarking, planing, saw areas, etc., shall be removed or contained to minimize fugitive particulate emissions. Spillage of wood residues shall be cleaned up as soon as possible and contained such that dust emissions from wind erosion and/or vehicle traffic are minimized. Disposal of collected sawmill residues must be accomplished in a manner that minimizes residues becoming airborne. Disposal by means of burning is prohibited unless it is conducted in a permitted incinerator; and

(III) All open-bodied vehicles transporting sawmill residues (sawdust, shavings, chips, bark) shall be covered with a tarp to achieve maximum control of particulate emissions;

BB. Internal combustion engines and gas turbine driven compressors, electric generator sets, and water pumps, used only for portable or emergency services, provided that the maximum annual operating hours shall not exceed five hundred (500) hours. Emergency generators are exempt only if their sole function is to provide back-up power when electric power from the local utility is interrupted. This exemption only applies if the emergency generators are operated only during emergency situations and for short periods of time to perform maintenance and operational readiness testing. The emergency generator shall be equipped with a non-resettable meter;

CC. Commercial dry cleaners; and

DD. Carving, cutting, routing, turning, drilling, machining, sawing, sanding, planing, buffing, or polishing solid materials, other than materials containing any asbestos, beryllium or lead greater than one percent (1%) by weight as determined by Material Safety Data Sheets (MSDS), vendor material specifications and/or purchase order specifications, where equipment—

(I) Directs a stream of liquid at the point where material is processed;

(II) Is used only for maintenance or support activity not conducted as part of the installation's primary business activity;

(III) Is exhausted inside a building; or

(IV) Is ventilated externally to an operating cyclonic inertial separator (cyclone), baghouse, or dry media filter. Other particulate control devices such as electrostatic precipitators or scrubbers are subject to construction permitting or a permit-by-rule, unless otherwise exempted.

3. Construction or modifications are exempt from 10 CSR 10-6.060 if they meet the requirements of subparagraphs (3)(A)3.B. of this rule for each hazardous air pollutant and the requirements of subparagraph (3)(A)3.A., (3)(A)3.C. or (3)(A)3.D. of this rule for each criteria pollutant. The director may require review of construction or modifications otherwise exempt under paragraph (3)(A)3. of this rule if the emissions of the proposed construction or modification will appreciably affect air quality or the air quality standards are appreciably exceeded or complaints involving air pollution have been filed in the vicinity of the proposed construction or modification.

A. At maximum design capacity, the proposed construction or modification shall emit each pollutant at a rate of no more than the amount specified in Table 1.

TABLE 1. Insignificant Emission Exemption Levels

Pollutant	Insignificance Level (lbs per hr)
Particulate Matter 10 Micron (PM <sub>10</sub> ) (Emitted solely by equipment)	1.0
Sulfur Oxides (SO <sub>x</sub> )	2.75
Nitrogen Oxides (NO <sub>x</sub> )	2.75
Volatile Organic Compounds (VOCs)	2.75
Carbon Monoxide (CO)	6.88

B. At maximum design capacity, the proposed construction or modification will emit a hazardous air pollutant at a rate of no more than one-half (0.5) pound per hour, or the hazardous emission threshold as established in subsection (12)(J) of 10 CSR 10-6.060, whichever is less.

C. Actual emissions of each criteria pollutant, except lead, will be no more than eight hundred seventy-six (876) pounds per year.

D. Actual emissions of volatile organic compounds that do not contain hazardous air pollutants will be no more than four (4) tons per year.

E. The operator shall maintain records in sufficient detail to show compliance with the exemptions in paragraph (3)(A)3. of this rule. Any noncompliance with the requirements in this paragraph constitutes a violation and is grounds for enforcement action and the exemption will no longer apply. Operators of installations found to be not in compliance with the requirements of this paragraph shall be required to apply for a construction permit under 10 CSR 10-6.060. The exemptions shall be documented as follows:

(I) Record keeping shall begin on the date the construction, reconstruction, modification or operation commencement and records shall be maintained to prove potential emissions are below *de minimis* levels and that actual emissions are below the exemption threshold levels in paragraph (3)(A)3. of this rule. Records shall be maintained using Emission Inventory Questionnaire (EIQ) methods in accordance with EIQ emission calculation hierarchy; or

(II) In lieu of records, the owner or operator shall demonstrate through engineering calculations that emissions are not in excess of the exemption levels established in paragraph (3)(A)3. of this rule.

#### (4) Reporting and Record Keeping.

### Title 11—DEPARTMENT OF PUBLIC SAFETY Division 50—Missouri State Highway Patrol Chapter 2—Motor Vehicle Inspection Division

#### ORDER OF RULEMAKING

By the authority vested in the superintendent of the Missouri State Highway Patrol under section 307.172 RSMo Supp. 2004, the superintendent hereby amends a rule as follows:

#### 11 CSR 50-2.311 Bumpers is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2004 (29 MoReg 1465-1466). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This

proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 50—Missouri State Highway Patrol**  
**Chapter 2—Motor Vehicle Inspection Division**

**ORDER OF RULEMAKING**

By the authority vested in the superintendent of the Missouri State Highway Patrol under sections 307.360.2, RSMo 2000 and 307.375, RSMo Supp. 2004, the superintendent hereby amends a rule as follows:

**11 CSR 50-2.320 School Bus Inspection is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2004 (29 MoReg 1467). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—Division of Medical Services**  
**Chapter 10—Nursing Home Program**

**ORDER OF RULEMAKING**

By the authority vested in the Division of Medical Services under sections 208.153, 208.159 and 208.201, RSMo 2000, the director amends a rule as follows:

**13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2004 (29 MoReg 1356–1358). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—Division of Medical Services**  
**Chapter 10—Nursing Home Program**

**ORDER OF RULEMAKING**

By the authority vested in the Division of Medical Services under sections 208.153 and 208.201, RSMo 2000, the director amends a rule as follows:

**13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2004 (29 MoReg 1359–1361). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This

proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS**  
**Division 30—Secretary of State**  
**Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives**

**ORDER OF RULEMAKING**

By the authority vested in the commissioner of securities under section 409.6-605, RSMo Supp. 2003, the commissioner amends a rule as follows:

**15 CSR 30-51.160 Effectiveness and Post-Effective Requirements is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2004 (29 MoReg 1362). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 30—Division of Health Standards and Licensure**  
**Chapter 86—Residential Care Facilities I and II**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 198.076, RSMo 2000 the department amends a rule as follows:

**19 CSR 30-86.022 Fire Safety Standards for New and Existing Residential Care Facilities I and II is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15, 2004 (29 MoReg 1362–1367). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after the publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE**  
**Division 10—General Administration**  
**Chapter 1—Organization**

**ORDER OF RULEMAKING**

By the authority vested in the director of the Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

**20 CSR 10-1.020 Interpretation of Referenced or Adopted Material is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 15,

2004 (29 MoReg 1368). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**T**his section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

## **Title 20—DEPARTMENT OF INSURANCE**

### **IN ADDITION**

Pursuant to section 537.610, RSMo regarding the Sovereign Immunity Limits for Missouri Public Entities, the Director of Insurance is required to calculate the new limitations on awards for liability.

Using the Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 537.610, RSMo the two new Sovereign Immunity Limits effective January 1, 2005 were established by the following calculations:

Index Based on 2000 Dollars

Third Quarter 2004 IPD Index 107.98

Third Quarter 2003 IPD Index 105.69

New 2005 Limit=2004 Limit×(2004 Index/2003 Index)

For all claims arising out of a single accident or occurrence:

$2,234,121 = 2,186,741 \times (1.0798/1.0569)$

For any one person in a single accident or occurrence:

$335,118 = 328,011 \times (1.0798/1.0569)$

**T**he Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript.

**Notice of Corporate Dissolution  
To All Creditors of and  
Claimants Against  
LEXCO SERVICES, INC.**

On November 22, 2004, LEXCO SERVICES, INC., a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State. Dissolution was effective on November 1, 2004.

Said corporation requests that all persons and organizations who have claims against it present them immediately by letter to the corporation at:

LEXCO SERVICES, INC.  
Attn: Margaret McBride  
10 Overbrook  
St. Louis, MO 63124

With copy to:

Sandberg, Phoenix & von Gontard P.C.  
Attn: Brent C. Beumer, Esq.  
One City Centre, 15<sup>th</sup> Floor  
St. Louis, MO 63101  
(314) 231-3332

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the dissolution of LEXCO SERVICES, INC., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the two notices authorized by statute, whichever is published last.

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**NOTICE OF WINDING UP LIMITED LIABILITY COMPANY**

On November 12, 2004, Slay's Restaurant of Clayton on the Park, L.L.C., a Missouri LLC (the "company"), filed a Notice of Winding Up. Claims against the company may be mailed to Robert Lattinville, c/o Stinson Morrison Hecker, LLP, 100 South fourth Street, Suite 700, St. Louis, Missouri 63102. Claims must include the name and address of the claimant, amount of the claim; basis for the claim; and documentation of the claim. A claim against the company will be barred unless a proceeding to enforce the claim is commenced within three years after this publication.

**NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND  
CLAIMANTS AGAINST TRILINK HEALTHCARE, INC.**

The Articles of Dissolution for TriLink HealthCare, Inc. were filed with the Missouri Secretary of State on November 16, 2004.

You are hereby notified that if you believe you have a claim against TriLink HealthCare, Inc., you must submit your claim in writing to C. Brent Bertram, Associate General Counsel, Blue Cross and Blue Shield of Kansas City, 2301 Main Street, Kansas City, Missouri 64108. Your claim must include the following information:

1. The name, address and telephone number of the claimant.
2. The amount of the claim.
3. The date the claim accrued or will accrue.
4. A brief description of the nature of the debt or the basis of the claim and documentation.

All claims against TriLink HealthCare, Inc. will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of this notice.

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**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY****NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST BBI  
Merchant Processing Company, LLC.**

On November 9, 2004, BBI Merchant Processing Company, LLC, a Missouri Limited Liability Company, filed its notice of winding up with the Missouri Secretary of State.

Dissolution was effective on November 9, 2004.

Said limited liability company requests that all persons and organizations with claims against it present them immediately by letter to the limited liability company at:

Office of the Corporate Secretary  
Bank of America Corporate Center  
100 North Tryon Street  
Charlotte, North Carolina 28255

All claims must include: the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the dissolution of BBI Merchant Processing Company, LLC, any claims against it will be barred unless proceeding to enforce the claim is commenced within three years after the publication date of the notice authorized by statute.

Authorized Representative: Mark J. Fobel, Manager

**NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY**

1. The name of the limited liability company is UNCOMMON VISION, LLC
2. The Articles of Organization for UNCOMMON VISION, LLC were filed with the Missouri Secretary of State on October 6, 2003.
3. On November 15, 2004, UNCOMMON VISION, LLC filed a Notice of Winding Up for Limited Liability Company with the Secretary of State of Missouri.
4. Persons with claims against UNCOMMON VISION, LLC should present them in accordance with the following procedure:
  - (a) In order to file a claim with UNCOMMON VISION, LLC, you must furnish the following:
    - (i) Amount of the claim
    - (ii) Basis for the claim
    - (iii) Documentation for the claim
  - (b) The claim must be mailed to:

c/o Teresa Reinking  
1200 Main Street, Ste. 1700  
Kansas City, Missouri 64105
5. A claim against UNCOMMON VISION, LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—27 (2002), 28 (2003) and 29 (2004). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
<b>OFFICE OF ADMINISTRATION</b>					
1 CSR 10	State Officials' Salary Compensation Schedule				27 MoReg 189 27 MoReg 1724 28 MoReg 1861 29 MoReg 1610
1 CSR 10-4.010	Commissioner of Administration		28 MoReg 1557	29 MoReg 2320	
1 CSR 20-3.070	Personnel Advisory Board and Division of Personnel			29 MoReg 1513	
1 CSR 20-5.025	Personnel Advisory Board and Division of Personnel			29 MoReg 1513	
<b>DEPARTMENT OF AGRICULTURE</b>					
2 CSR 30-2.010	Animal Health	29 MoReg 1417	29 MoReg 1437		
2 CSR 30-2.060	Animal Health				29 MoReg 1480
2 CSR 30-6.020	Animal Health	29 MoReg 1418	29 MoReg 1438		
2 CSR 30-10.010	Animal Health		29 MoReg 2257		
2 CSR 30-22.010	Animal Health		29 MoReg 2257		
2 CSR 70-40.015	Plant Industries		29 MoReg 1439		
2 CSR 70-40.025	Plant Industries		29 MoReg 1439		
<b>DEPARTMENT OF CONSERVATION</b>					
3 CSR 10-3.010	Conservation Commission		29 MoReg 1689		
3 CSR 10-4.110	Conservation Commission		29 MoReg 1689		
3 CSR 10-4.111	Conservation Commission		29 MoReg 1690		
3 CSR 10-4.113	Conservation Commission		29 MoReg 1690		
3 CSR 10-5.205	Conservation Commission		29 MoReg 1690		
3 CSR 10-5.215	Conservation Commission		29 MoReg 1691		
3 CSR 10-5.225	Conservation Commission		29 MoReg 1691		
3 CSR 10-5.430	Conservation Commission		29 MoReg 1691		
3 CSR 10-5.565	Conservation Commission		29 MoReg 1692		
3 CSR 10-5.579	Conservation Commission		29 MoReg 1692		
3 CSR 10-6.410	Conservation Commission		29 MoReg 1692		
3 CSR 10-6.415	Conservation Commission		29 MoReg 1692		
3 CSR 10-6.505	Conservation Commission		29 MoReg 1793		
3 CSR 10-6.510	Conservation Commission		29 MoReg 1693		
3 CSR 10-6.525	Conservation Commission		29 MoReg 1693		
3 CSR 10-6.533	Conservation Commission		29 MoReg 1694		
3 CSR 10-6.535	Conservation Commission		29 MoReg 1694		
3 CSR 10-6.605	Conservation Commission		29 MoReg 1695		
3 CSR 10-6.610	Conservation Commission		29 MoReg 1695		
3 CSR 10-6.615	Conservation Commission		29 MoReg 1696		
3 CSR 10-7.410	Conservation Commission		29 MoReg 1291	29 MoReg 2160	29 MoReg 1696
3 CSR 10-7.427	Conservation Commission		29 MoReg 1696		
3 CSR 10-7.430	Conservation Commission		29 MoReg 1793		
3 CSR 10-7.431	Conservation Commission		29 MoReg 1697		
3 CSR 10-7.438	Conservation Commission		29 MoReg 1794		
3 CSR 10-7.455	Conservation Commission		29 MoReg 1697		
3 CSR 10-8.510	Conservation Commission		29 MoReg 1697		
3 CSR 10-8.515	Conservation Commission		29 MoReg 1698		
3 CSR 10-9.105	Conservation Commission		29 MoReg 1698		
3 CSR 10-9.110	Conservation Commission		29 MoReg 1794		
3 CSR 10-9.220	Conservation Commission		29 MoReg 1699		
3 CSR 10-9.240	Conservation Commission		29 MoReg 1699		
3 CSR 10-9.353	Conservation Commission		29 MoReg 1440	29 MoReg 2321	
3 CSR 10-9.425	Conservation Commission		29 MoReg 1699		
3 CSR 10-9.440	Conservation Commission		29 MoReg 1700		
3 CSR 10-9.565	Conservation Commission		29 MoReg 1440	29 MoReg 2321	
3 CSR 10-9.566	Conservation Commission		29 MoReg 1700		
3 CSR 10-9.570	Conservation Commission		29 MoReg 1700		
3 CSR 10-9.575	Conservation Commission		29 MoReg 1701		
3 CSR 10-9.625	Conservation Commission		29 MoReg 1701		
3 CSR 10-10.705	Conservation Commission		29 MoReg 1701		
3 CSR 10-10.725	Conservation Commission		29 MoReg 1702		
3 CSR 10-10.732	Conservation Commission		29 MoReg 1702		
3 CSR 10-11.120	Conservation Commission		29 MoReg 1703		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
3 CSR 10-11.125	Conservation Commission		29 MoReg 1703		
3 CSR 10-11.145	Conservation Commission		29 MoReg 1703		
3 CSR 10-11.150	Conservation Commission		29 MoReg 1704		
3 CSR 10-11.155	Conservation Commission		29 MoReg 1704		
3 CSR 10-11.180	Conservation Commission		29 MoReg 1795		
3 CSR 10-11.182	Conservation Commission		29 MoReg 1797		
3 CSR 10-11.183	Conservation Commission		29 MoReg 1799R		
3 CSR 10-11.186	Conservation Commission		29 MoReg 1704		
3 CSR 10-11.187	Conservation Commission		29 MoReg 1705		
3 CSR 10-11.205	Conservation Commission		29 MoReg 1705		
3 CSR 10-11.210	Conservation Commission		29 MoReg 1706		
3 CSR 10-11.215	Conservation Commission		29 MoReg 1707		
3 CSR 10-12.109	Conservation Commission		29 MoReg 1707		
3 CSR 10-12.110	Conservation Commission		29 MoReg 1799		
3 CSR 10-12.115	Conservation Commission		29 MoReg 1800		
3 CSR 10-12.125	Conservation Commission		29 MoReg 1800		
3 CSR 10-12.135	Conservation Commission		29 MoReg 1708		
3 CSR 10-12.140	Conservation Commission		29 MoReg 1801		
3 CSR 10-12.145	Conservation Commission		29 MoReg 1803		
3 CSR 10-12.150	Conservation Commission		29 MoReg 1708		
3 CSR 10-20.805	Conservation Commission		29 MoReg 1291	29 MoReg 2160	29 MoReg 1803
<b>DEPARTMENT OF ECONOMIC DEVELOPMENT</b>					
4 CSR 30-5.060	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects			This Issue	
4 CSR 30-12.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		29 MoReg 2212		
4 CSR 45-1.010	Athlete Agents	29 MoReg 1420	29 MoReg 1441		
4 CSR 60-1.025	State Board of Barber Examiners		29 MoReg 1804		
4 CSR 65-1.020	Endowed Care Cemeteries		29 MoReg 1161R	This IssueW	
4 CSR 65-1.030	Endowed Care Cemeteries		29 MoReg 1161	This IssueW	
4 CSR 65-1.050	Endowed Care Cemeteries		29 MoReg 1162	This IssueW	
4 CSR 65-2.010	Endowed Care Cemeteries		29 MoReg 1162	This IssueW	
4 CSR 90-2.010	State Board of Cosmetology		29 MoReg 1292	This Issue	
4 CSR 90-2.020	State Board of Cosmetology		29 MoReg 1299	This Issue	
4 CSR 90-2.030	State Board of Cosmetology		29 MoReg 1299	This Issue	
4 CSR 90-4.010	State Board of Cosmetology		29 MoReg 1300	This Issue	
4 CSR 90-13.010	State Board of Cosmetology		29 MoReg 1303	This Issue	
4 CSR 95-1.005	Committee for Professional Counselors			This Issue	
4 CSR 95-1.010	Committee for Professional Counselors			This IssueR	
4 CSR 95-1.020	Committee for Professional Counselors			This IssueR	
				This Issue	
4 CSR 95-1.030	Committee for Professional Counselors			This IssueR	
4 CSR 95-1.040	Committee for Professional Counselors			This IssueR	
4 CSR 95-1.050	Committee for Professional Counselors			This Issue	
4 CSR 95-1.060	Committee for Professional Counselors			This Issue	
4 CSR 95-2.010	Committee for Professional Counselors			This IssueR	
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4 CSR 95-2.020	Committee for Professional Counselors			This IssueR	
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4 CSR 95-2.021	Committee for Professional Counselors			This Issue	
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4 CSR 95-2.040	Committee for Professional Counselors			This IssueR	
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4 CSR 110-2.111	Missouri Dental Board		29 MoReg 1163	29 MoReg 2160	
4 CSR 110-2.170	Missouri Dental Board		29 MoReg 1514		
4 CSR 110-2.180	Missouri Dental Board		29 MoReg 1514R		
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4 CSR 110-4.010	Missouri Dental Board		29 MoReg 1515		
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4 CSR 110-4.040	Missouri Dental Board		29 MoReg 1531		
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4 CSR 150-2.153	State Board of Registration for the Healing Arts		29 MoReg 781		
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4 CSR 220-2.030	State Board of Pharmacy		This Issue		
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4 CSR 230-1.030	State Board of Podiatric Medicine		29 MoReg 1444		
4 CSR 230-2.010	State Board of Podiatric Medicine		29 MoReg 1445		
4 CSR 230-2.020	State Board of Podiatric Medicine		29 MoReg 1446		
4 CSR 230-2.021	State Board of Podiatric Medicine		29 MoReg 1447		
4 CSR 230-2.022	State Board of Podiatric Medicine		29 MoReg 1447		
4 CSR 230-2.030	State Board of Podiatric Medicine		29 MoReg 1448		
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4 CSR 230-2.065	State Board of Podiatric Medicine		29 MoReg 1452		
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4 CSR 240-29.130	Public Service Commission		This Issue		
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4 CSR 240-32.060	Public Service Commission		28 MoReg 2147		
4 CSR 240-120.085	Public Service Commission		29 MoReg 1164	29 MoReg 2321	
4 CSR 240-120.135	Public Service Commission		29 MoReg 1167R	29 MoReg 2321R	
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4 CSR 245-4.060	Real Estate Appraisers		29 MoReg 1170	This Issue	
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4 CSR 263-2.082	State Committee for Social Workers		29 MoReg 1175	29 MoReg 2161	

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4 CSR 263-3.080	State Committee for Social Workers		29 MoReg 1180	29 MoReg 2162	
4 CSR 263-3.100	State Committee for Social Workers		29 MoReg 1181	29 MoReg 2162	
4 CSR 263-3.120	State Committee for Social Workers		29 MoReg 1182	29 MoReg 2163	
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5 CSR 50-345.100	Division of School Improvement		29 MoReg 1183	29 MoReg 2322	
5 CSR 50-345.200	Division of School Improvement		29 MoReg 1186	29 MoReg 2325	
5 CSR 60-100.050	Division of Career Education		29 MoReg 1709		
5 CSR 70-742.140	Special Education		N.A.	29 MoReg 2326	
5 CSR 80-670.100	Teacher Quality and Urban Education		29 MoReg 1809		
5 CSR 80-800.200	Teacher Quality and Urban Education		29 MoReg 1711		
5 CSR 80-800.220	Teacher Quality and Urban Education		29 MoReg 1711		
5 CSR 80-800.230	Teacher Quality and Urban Education		29 MoReg 1714		
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5 CSR 80-800.400	Teacher Quality and Urban Education		29 MoReg 1725		
5 CSR 90-5.400	Vocational Rehabilitation		29 MoReg 1187	29 MoReg 2328	
5 CSR 90-5.460	Vocational Rehabilitation		29 MoReg 1187	29 MoReg 2328	
5 CSR 90-5.470	Vocational Rehabilitation		29 MoReg 1188	29 MoReg 2328	
5 CSR 90-7.010	Vocational Rehabilitation		29 MoReg 1051		
5 CSR 90-7.100	Vocational Rehabilitation		29 MoReg 1051		
5 CSR 90-7.200	Vocational Rehabilitation		29 MoReg 1052		
5 CSR 90-7.300	Vocational Rehabilitation		29 MoReg 1052		
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7 CSR 10-25.010	Missouri Highways and Transportation Commission			29 MoReg 2169	
7 CSR 10-25.040	Missouri Highways and Transportation Commission		29 MoReg 1352		
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9 CSR 10-5.200	Director, Department of Mental Health		29 MoReg 1054	29 MoReg 2224W	
9 CSR 10-31.014	Director, Department of Mental Health	29 MoReg 1507	29 MoReg 1544		
9 CSR 30-3.132	Certification Standards	29 MoReg 2255	29 MoReg 2258		
9 CSR 30-3.201	Certification Standards		29 MoReg 1096	29 MoReg 2328	
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9 CSR 45-2.017	Division of Mental Retardation and Developmental Disabilities		29 MoReg 2258		
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9 CSR 45-5.030	Division of Mental Retardation and Developmental Disabilities		29 MoReg 1455R		
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10 CSR 10-6.061	Air Conservation Commission		29 MoReg 1193	This Issue	
10 CSR 10-6.110	Air Conservation Commission		29 MoReg 976	29 MoReg 1758	
10 CSR 10-6.120	Air Conservation Commission		29 MoReg 1196		
10 CSR 10-6.410	Air Conservation Commission		29 MoReg 985	29 MoReg 1760	
10 CSR 25-17.010	Hazardous Waste Management Commission		29 MoReg 794		
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10 CSR 25-17.100	Hazardous Waste Management Commission		29 MoReg 830		
10 CSR 25-17.110	Hazardous Waste Management Commission		29 MoReg 830		
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10 CSR 25-17.140	Hazardous Waste Management Commission		29 MoReg 832		
10 CSR 25-17.150	Hazardous Waste Management Commission		29 MoReg 833		
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10 CSR 40-10.020	Land Reclamation Commission		29 MoReg 1303		
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10 CSR 40-10.100	Land Reclamation Commission		29 MoReg 1313		
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11 CSR 40-5.065	Division of Fire Safety		29 MoReg 1100	29 MoReg 1760	
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11 CSR 40-6.020	Division of Fire Safety		29 MoReg 1809		
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11 CSR 45-1.100	Missouri Gaming Commission		29 MoReg 1464		
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11 CSR 45-5.150	Missouri Gaming Commission		29 MoReg 891	29 MoReg 1760	
11 CSR 45-5.180	Missouri Gaming Commission		29 MoReg 1246	29 MoReg 2329	
11 CSR 45-5.181	Missouri Gaming Commission		29 MoReg 1246	29 MoReg 2329	
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11 CSR 45-6.030	Missouri Gaming Commission		29 MoReg 891	29 MoReg 1761	
11 CSR 45-10.020	Missouri Gaming Commission		29 MoReg 894	29 MoReg 1761	
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11 CSR 75-15.010	Peace Officer Standards and Training Program		29 MoReg 1315	29 MoReg 2330	
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12 CSR 10-23.335	Director of Revenue		29 MoReg 1547		
12 CSR 10-23.375	Director of Revenue		29 MoReg 1547R		
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12 CSR 10-24.440	Director of Revenue		29 MoReg 1104	29 MoReg 1761	
12 CSR 10-25.040	Director of Revenue		29 MoReg 1315	29 MoReg 2330	
12 CSR 10-26.130	Director of Revenue		29 MoReg 1550R		
12 CSR 10-26.140	Director of Revenue		29 MoReg 1550R		
12 CSR 10-26.150	Director of Revenue		29 MoReg 1550R		
12 CSR 10-26.160	Director of Revenue		29 MoReg 1550R		
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12 CSR 30-3.010	State Tax Commission		29 MoReg 1816		
12 CSR 30-3.020	State Tax Commission		29 MoReg 1816		
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12 CSR 40-40.170	State Lottery		29 MoReg 1467		
12 CSR 40-40.270	State Lottery		29 MoReg 1467		
12 CSR 40-50.040	State Lottery		29 MoReg 1468		
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13 CSR 35-80.010	Children's Division	29 MoReg 1636	29 MoReg 1729		
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13 CSR 70-10.015	Division of Medical Services	29 MoReg 1155	29 MoReg 736	29 MoReg 1266	
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15 CSR 40-3.140	State Auditor	29 MoReg 1651	29 MoReg 2274		
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15 CSR 40-3.160	State Auditor	29 MoReg 1673	29 MoReg 2296		
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16 CSR 50-10.050	The County Employees' Retirement Fund		29 MoReg 1469		
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19 CSR 20-20.010	Division of Environmental Health and Communicable Disease Prevention		29 MoReg 1733		
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<b>04-01</b>	Establishes the Public Safety Officer Medal of Valor, and the Medal of Valor Review Board	February 3, 2004	29 MoReg 294
<b>04-02</b>	Designates staff having supervisory authority over agencies	February 3, 2004	29 MoReg 297
<b>04-03</b>	Creates the Missouri Automotive Partnership	January 14, 2004	29 MoReg 151
<b>04-04</b>	Creates the Missouri Methamphetamine Education and Prevention Task Force	January 27, 2004	29 MoReg 154
<b>04-05</b>	Establishes a Missouri Methamphetamine Treatment Task Force	January 27, 2004	29 MoReg 156
<b>04-06</b>	Establishes a Missouri Methamphetamine Enforcement and Environmental Protection Task Force	January 27, 2004	29 MoReg 158
<b>04-07</b>	Establishes the Missouri Commission on Patient Safety and supercedes Executive Order 03-16	February 3, 2004	29 MoReg 299
<b>04-08</b>	Transfers the Governor's Council on Disability and the Missouri Assistive Technology Advisory Council to the Office of Administration	February 3, 2004	29 MoReg 301
<b>04-09</b>	Requires vendors to disclose services performed offshore. Restricts agencies in awarding contracts to vendors of offshore services	March 17, 2004	29 MoReg 533
<b>04-10</b>	Grants authority to Director of Department of Natural Resources to temporarily waive regulations during periods of emergency and recovery	May 28, 2004	29 MoReg 965
<b>04-11</b>	Declares regional state of emergency because of the need to repair electrical outages by various contractors, including a Missouri contractor. Allows temporary exemption from federal regulations	May 28, 2004	29 MoReg 967
<b>04-12</b>	Declares emergency conditions due to severe weather in all Northern and Central Missouri counties	June 4, 2004	29 MoReg 968
<b>04-13</b>	Declares June 11, 2004 to be day of mourning for President Ronald Reagan	June 7, 2004	29 MoReg 969
<b>04-14</b>	Establishes an Emancipation Day Commission. Requests regular observance of Emancipation Proclamation on June 19	June 17, 2004	29 MoReg 1045
<b>04-15</b>	Declares state of emergency due to lost electrical service in St. Louis region	July 7, 2004	29 MoReg 1159
<b>04-16</b>	Orders a special census be taken in the City of Licking	July 23, 2004	29 MoReg 1245
<b>04-17</b>	Declares that Missouri implement the Emergency Mutual Aid Compact (EMAC) agreement with the State of Florida	August 18, 2004	29 MoReg 1347
<b>04-18</b>	Accepts retrocession of federal jurisdiction over the St. Louis Army Ammunition Plant	August 25, 2004	29 MoReg 1349
<b>04-19</b>	Implements the EMAC with the State of Florida, activates the EMAC plan, and authorizes the use of the Missouri National Guard	September 10, 2004	29 MoReg 1430
<b>04-20</b>	Reestablishes the Poultry Industry Committee	September 14, 2004	29 MoReg 1432
<b>04-21</b>	Directs the creation of the Forest Utilization Committee within the Missouri Department of Conservation	September 14, 2004	29 MoReg 1434
<b>04-22</b>	Requests health care providers limit influenza vaccinations to high risk persons. Orders various actions by providers, Missouri Department of Health and Senior Services, and Attorney General's Office regarding influenza vaccine supply.	October 25, 2004	29 MoReg 1683
<b>04-23</b>	Creates the Forest Utilization Committee within the Missouri Department of Conservation. Supersedes and rescinds Executive Order 04-21	October 22, 2004	29 MoReg 1685
<b>04-24</b>	Rescinds Executive Order 03-15	October 22, 2004	29 MoReg 1687
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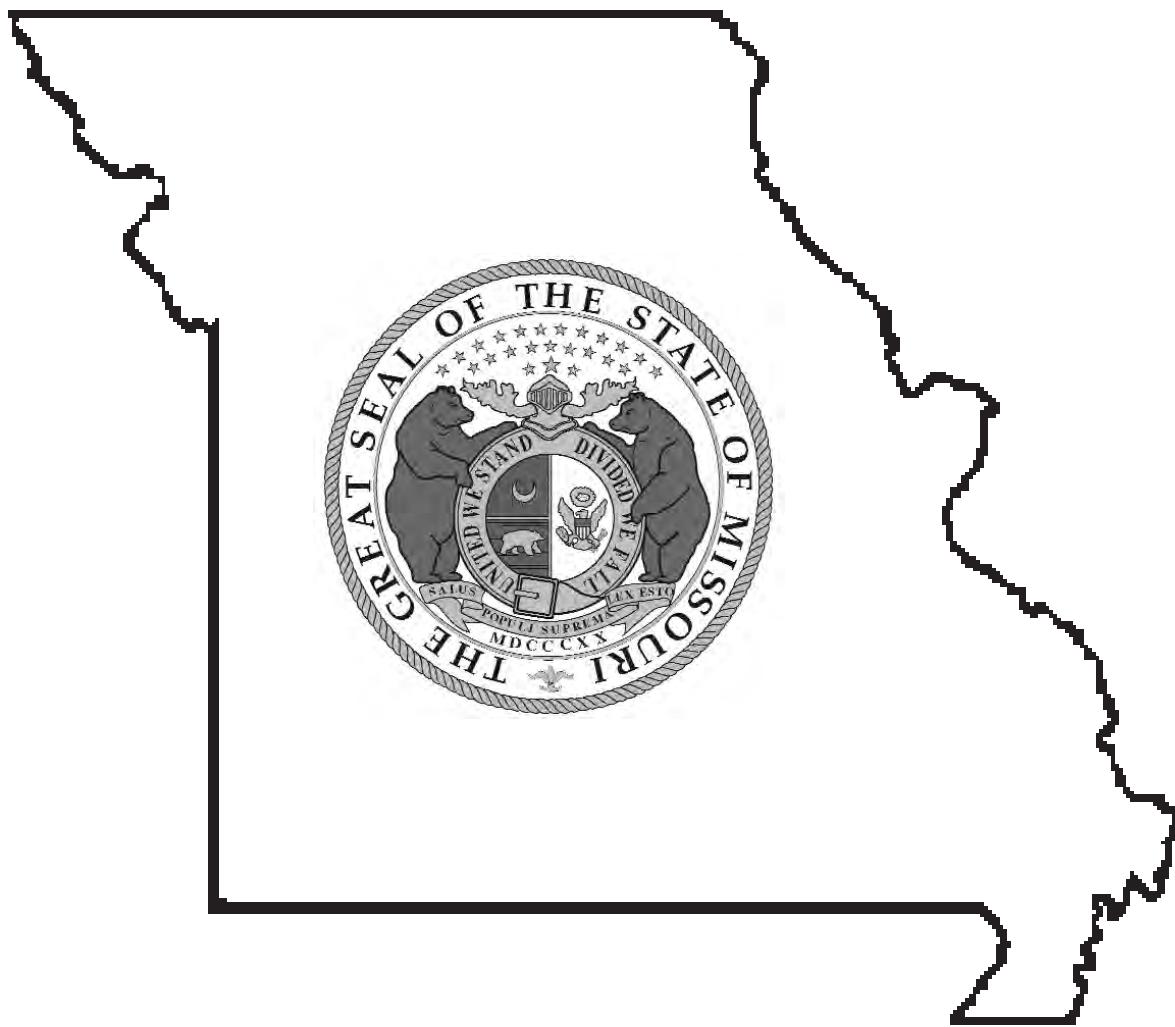
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# RULEMAKING 1-2-3

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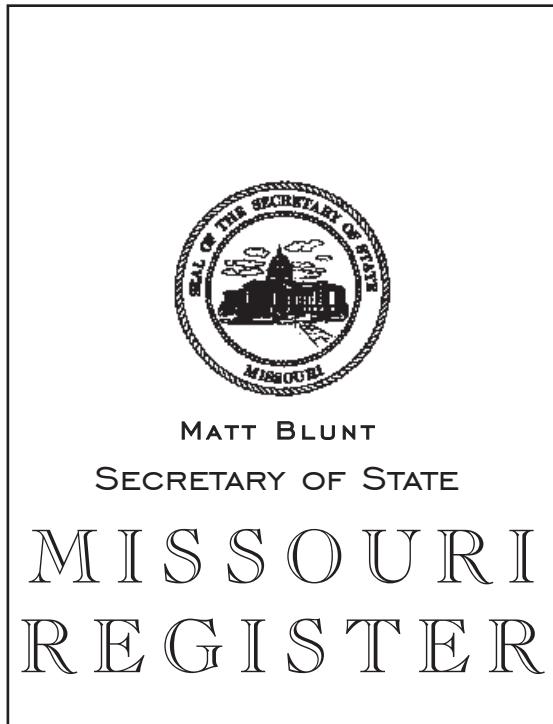


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